Committee on Economic Development

Thursday, March 13, 2008
9:30 AM – 12:00 PM
Reed Hall

Marco Rubio
Speaker

Don Davis
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Committee on Economic Development

Start Date and Time: Thursday, March 13, 2008 09:30 am

End Date and Time: Thursday, March 13, 2008 12:00 pm

Location: Reed Hall (102 HOB)
Duration: 2.50 hrs

Consideration of the following bill(s):

HB 111 Hurricane Preparedness by Nehr
HB 217 Tax on Sales, Use, and Other Transactions by Altman
HB 877 Working Waterfront Real Property by Needelman
HB 879 Early Learning by Kelly
HB 1055 Space Industry by Altman
HB 1379 Tax on Sales, Use, and Other Transactions by Poppell

Workshop Issues:
Growth Management
Incentives, rural economic development and growing FL business

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Wednesday, March 12, 2008

By request of the Chair, all committee members are asked to have amendments to bills on the agenda submitted by 6:00 p.m., Wednesday March 12, 2008

NOTICE FINALIZED on 03/11/2008 15:21 by DGR

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 111 Hurricane Preparedness

SPONSOR(S): Nehr and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 86

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development		Rojas	Croom
2) Economic Expansion & Infrastructure Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

This bill provides that no sales tax will be collected on certain items from June 1, 2008 through June 12, 2008. This coincides with the first day of hurricane season (June 1). Chapter 2007-25, Laws of Florida, authorized a similar sales tax exemption for hurricane preparedness items from June 1, 2007, through June 12, 2007.

The bill authorizes the Department of Revenue (DOR) to adopt rules in order to administer the provisions and provides an appropriation to DOR, in the amount of $289,100 for the current fiscal year (2007-08); these funds will be used to print and mail Tax Information Publications (TIPs) to sales and use tax dealers prior to the start of the holiday. DOR has stated that no rulemaking was required to implement the tax-exemption period in 2005, 2006, or 2007.

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: This bill creates a 12-day sales tax holiday, beginning June 1, 2008, on certain supplies purchased in Florida to prepare for hurricane season.

B. EFFECT OF PROPOSED CHANGES:

Ch. 212, F.S., imposes a state sales tax on the sale of tangible personal property and authorizes local option taxes on such sales. This bill provides that no sales tax will be collected on certain items from June 1, 2008 through June 12, 2008. This coincides with the first day of hurricane season (June 1).

The list of exempt items includes: (a) any portable self-powered light source selling for $20 or less; (b) any portable self-powered radio, two-way radio, or weatherband radio selling for $75 or less; (c) any tarpaulin or other flexible waterproof sheeting selling for $50 or less; (d) any ground anchor system or tie-down kit selling for $50 or less; (e) any gas or diesel fuel tank selling for $25 or less; (f) any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for $30 or less; (g) any cell phone battery selling for $60 or less and any cell phone charger selling for $40 or less; (h) any nonelectric food storage cooler selling for $30 or less; (i) any portable generator used to provide light or communications or preserve food in the event of a power outage selling for $1,000 or less; (j) any storm shutter device selling for $200 or less; (k) any carbon monoxide detector selling for $75 or less; (l) any re-usable ice selling for $10 or less; and (m) any single product consisting of two or more of the items listed in (a)-(l) selling for $75 or less; (n) any boat anchor selling for $100 or less; any marine battery; or any fender, anchor chain, dock line, or similar device used to protect a boat tied up at a dock and selling for $300 or less; or (o) any missile resistant, impact-rated single garage door selling for $500 or less or double garage door selling for $1,000 or less.

The bill defines "storm shutter device" as any materials and products manufactured, rated, and marketed specifically for the purpose of preventing window damage from storms.

The bill defines "missile resistant, impact-rated garage door" as garage door materials and products manufactured, rated, and marketed specifically for the purpose of preventing housing structural damage from storms and debris.

The provisions of this bill do not apply to sales within an airport as defined in s. 330.27, F.S., within a public lodging establishment as defined in s. 509.013, F.S., or within a theme park or entertainment complex as defined in s. 509.013, F.S.

The bill authorizes the Department of Revenue (DOR) to adopt rules in order to administer the provisions and provides an appropriation to DOR, in the amount of $289,100 for the current fiscal year (2007-08); these funds will be used to print and mail Tax Information Publications (TIPs) to sales and use tax dealers prior to the start of the holiday. DOR has stated in their analysis that no rulemaking was required to implement the tax-exemption period in 2005, 2006, or 2007.

Chapter 2007-25, Laws of Florida, authorized a similar sales tax exemption for hurricane preparedness items from June 1, 2007, through June 12, 2007.

C. SECTION DIRECTORY:

Section 1. Provides a sales tax exemption for certain supplies from June 1, 2008, through June 12, 2008; provides exceptions to this exemption; provides rule-making authority to the Department of Revenue.

Section 2. Appropriates $289,100 from General Revenue to the Department of Revenue to administer this sales tax holiday.

Section 3. Provides that the act will become effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Revenue Estimating Conference estimates this bill will have a negative fiscal impact of $12.3 million to state government.

2. Expenditures:

   The bill provides an appropriation of $289,100 to administer the sales tax holiday in the current fiscal year.

Tax Information Publication (TIP) Printing Costs	$72,305
1st Class Postage	$214,500
Total	$289,100

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference estimates that this bill will have a $2.8 million negative fiscal impact on local governments.

	2007-08
Revenue Sharing	($0.4m)
Local Gov't. Half Cent	($1.2m)
Local Option	($1.2m)
Total Local Impact	($2.8m)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons that purchase the items covered by this bill during the specified periods will save money by not having to pay a sales tax on the items covered by this bill. In addition, the availability of the sales tax exemption may prompt some consumers to purchase more of the items eligible for the exemption, thereby causing an increase in the number of sales by Florida retailers.

D. FISCAL COMMENTS:

The bill provides a FY 2007-08 appropriation of $289,100 for the Department of Revenue to administer the bill's provisions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill will reduce the authority of counties to raise revenues in the aggregate through local option sales taxes. No exemption applies. Therefore, the bill may be a mandate requiring a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill gives the Department of Revenue authority to adopt rules concerning this tax holiday.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The applicable time period for the sales tax exemption during 2008 is June 1 through June 12. Depending upon when the bill potentially becomes a law (after passage by the Legislature and approval of the Governor), the bill may not be effective during some portion, or all, of that time period. This may reduce the fiscal impact of the bill for FY 2007-08.

Two exemptions in the bill seem to receive contradictory treatment. Provision (f) excludes any boat batteries from the exemption while Provision (n) indicates that any marine battery is exempt from sales tax during the effective period.

D. STATEMENT OF THE SPONSOR

No statement submitted.

A bill to be entitled

An act relating to hurricane preparedness; providing an exemption from the sales and use tax for sales of certain tangible personal property for a certain period; providing an exception for sales within a public lodging establishment, theme park, entertainment complex, or airport; authorizing the Department of Revenue to adopt rules; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) Effective June 1, 2008, through June 12, 2008, the tax levied under chapter 212, Florida Statutes, may not be collected on the sale of:

(a) Any portable self-powered light source selling for $20 or less;

(b) Any portable self-powered radio, two-way radio, or weatherband radio selling for $75 or less;

(c) Any tarpaulin or other flexible waterproof sheeting selling for $50 or less;

(d) Any item normally sold as, or generally advertised as, a ground anchor system or tie-down kit selling for $50 or less;

(e) Any gas or diesel fuel tank selling for $25 or less;

(f) Any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for $30 or less;

(g) Any cell phone battery selling for $60 or less or any

cell phone charger selling for $40 or less;

(h) Any nonelectric food storage cooler selling for $30 or less;

(i) Any portable generator used to provide light or communications or preserve food in the event of a power outage selling for $1,000 or less;

(j) Any storm shutter device selling for $200 or less. As used in this paragraph, the term "storm shutter device" means materials and products manufactured, rated, and marketed specifically for the purpose of preventing window damage from storms;

(k) Any carbon monoxide detector selling for $75 or less;

(l) Any reusable ice selling for $10 or less;

(m) Any single product consisting of two or more of the items listed in paragraphs (a)-(l) selling for $75 or less;

(n)1. Any boat anchor selling for $100 or less;

2. Any marine battery; or

3. Any fender, anchor chain, dock line, or similar device used to protect a boat tied up at a dock and selling for $300 or less; or

(o) Any missile resistant, impact-rated single garage door selling for $500 or less or double garage door selling for $1,000 or less. As used in this paragraph, the term "missile resistant, impact-rated garage door" means garage door materials and products manufactured, rated, and marketed specifically for the purpose of preventing housing structural damage from storms and debris.

(2) This section does not apply to sales within a public

lodging establishment as defined in s. 509.013, Florida Statutes, within a theme park or entertainment complex as defined in s. 509.013, Florida Statutes, or within an airport as defined in s. 330.27, Florida Statutes.

(3) The Department of Revenue may adopt rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.

Section 2. The sum of $289,100 is appropriated from the General Revenue Fund to the Department of Revenue to administer the exemption provided for in section 1 during the 2007-2008 fiscal year.

Section 3. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1(for drafter's use only)

Bill No. **HB 111**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee on Economic Development

Representative Nehr offered the following:

Amendment

Remove lines 44-55

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 217 Tax on Sales, Use, and Other Transactions
SPONSOR(S): Altman and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 380

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development		West SPW	Croom GOC
2) Economic Expansion & Infrastructure Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

HB 217 creates an exemption from the state sales and use tax for:

- An aircraft that primarily will be used in a fractional aircraft ownership program;
- Parts or labor used in the completion, maintenance, repair, or overhaul of an aircraft for primary use in a fractional aircraft ownership program.

Additionally, HB 217 provides for a maximum tax of $300 on the sale or use in this state of a fractional aircraft ownership interest in aircraft pursuant to a fractional ownership program. This maximum tax applies to the total consideration paid for the fractional ownership interest, including amounts paid by the fractional owner as monthly management or maintenance fees.

HB 217 defines a "fractional aircraft ownership program" as a program that meets the requirements in FAA regulation Title 14, chapter I, part 91, subpart K, C.F.R., except the program must include a minimum of 25 aircraft owned or leased by the business or affiliated group providing the program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes – The bill creates an exemption from the state sales and use tax for fractional aircraft and related parts and labor. Also, the bill provides a maximum sales and use tax on ownership interest related to fractional aircraft ownership programs.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Aviation-related State Tax Exemptions

Chapter 212, F.S., contains the state's statutory provisions authorizing the levying and collection of Florida's six-percent sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. The statutes currently provide more than 200 exemptions.

A number of sales and use tax exemptions related to aviation exist in s. 212.08, F.S.:

- Aircraft repair and maintenance labor charges – For qualified aircraft, aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,000 pounds maximum certified takeoff weight.
- Equipment used in aircraft repair and maintenance – For qualified aircraft, aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,300 pounds maximum certified takeoff weight.
- Aircraft sales and leases – For qualified aircraft and for aircraft of more than 15,000 pounds maximum certified takeoff weight used by a common carrier, as defined by federal regulations.
- Aircraft that is purchased in Florida, but will not be used or stored in this state, qualifies for either a full or partial sales tax exemption, depending on the circumstances.

"Qualified aircraft" is defined in s. 212.02(33), F.S., as:

- Any aircraft having a maximum certified takeoff weight of less than 10,000 pounds;
- Is equipped with twin turbofan engines that meet Stage IV noise requirements;
- Is used by a business operating as an on-demand air carrier under Federal Aviation Administration Regulation Title 14, chapter I, part 135, Code of Federal Regulations; and
- Is used by a business that owns and operates a fleet of at least 25 such aircraft in Florida.

The sales and use tax exemptions for "qualified aircraft," commonly referred to as Very Light Jets (VLJs), were enacted in 2006 to encourage DayJet Corporation and similar "air taxi" businesses to locate in Florida.

Fractional Aircraft Ownership Programs

In a "fractional aircraft ownership program," individuals or entities purchase an undivided interest in a specific, serial-numbered aircraft, and are guaranteed availability of the plane (or a similar one) within a time-frame specified by contract. Typically, fractional aircraft ownership contracts also require fractional owners to pay management fees for the operation, upkeep, and storage of the planes.

NetJets, based in New Jersey, is generally acknowledged by the industry as the first fractional ownership operation. It began in 1986 with the creation of a program that offered aircraft owners increased flexibility in the ownership and operation of aircraft, and provided for the management of the aircraft by an aircraft management company. The aircraft owners participating in the program agreed not only to share their own aircraft with others having a shared interest in that aircraft, but also to lease their aircraft to other owners in the program (called a "dry lease exchange"). The aircraft owners used a common management company to provide aviation management services including maintenance of the aircraft, pilot training and assignment, and administration of the leasing of the aircraft among the owners.

During the 1990s, the growth of fractional aircraft ownership programs was substantial in terms of size, numbers, and complexity of operations and issues. In 2001, the Federal Aviation Administration (FAA) adopted new rules on fractional aircraft ownership. The new rules established that an aircraft's fractional owners and the aircraft management company share the responsibility for aircraft operations and passenger safety. The new rules also established ownership definitions and clarified certain administrative requirements for fractional aircraft ownership. For example, the rules define "fractional ownership interest" as equal to, or greater than, 1/16th of a subsonic, fixed-winged, or powered-lift program aircraft; for a helicopter, the ownership interest can be as small as 1/32nd.

Fractional aircraft ownership continues to grow in popularity. According to the General Aviation Manufacturers Association, fractional aircraft programs comprised almost 14 percent of the business jets purchased worldwide in 2006. The number of aircraft operating in fractional programs increased from 949 in 2005 to 984 in 2006 (a 3.7-percent increase) and the number of entities and individuals involved in fractional ownership rose to 4,903 in 2006 (a 4.5-percent increase over 2005 figures). Similarly, the FAA's Aerospace Forecast for Fiscal Years 2006-2007 noted that flights by fractional aircraft are outpacing the rest of the aviation industry, up nearly 3 percent in the first nine months of 2006 over the same time period in 2005.

Florida has one fractional aircraft ownership program: Avantair, which relocated from New Jersey to Clearwater, Florida. But some of the airplanes typically used in fractional aircraft ownership programs fall between the current 10,000-pound and the 15,000-pound certified takeoff weight thresholds, so Avantair and other fractional companies that have expressed interest in moving to Florida are ineligible for the tax exemptions.

Effects of Proposed Changes

The bill creates a 100 percent exemption from the state sales and use tax for:

- An aircraft that primarily will be used in a fractional aircraft ownership program;
- Parts or labor used in the completion, maintenance, repair, or overhaul of an aircraft for primary use in a fractional aircraft ownership program.

Additionally, the bill provides for a maximum tax of $300 on the sale or use in this state of a fractional aircraft ownership interest in aircraft pursuant to a fractional ownership program. This maximum tax applies to the total consideration paid for the fractional ownership interest, including amounts paid by the fractional owner as monthly management or maintenance fees.

The bill defines a "fractional aircraft ownership program" as a program that meets the requirements set forth in FAA regulation Title 14, chapter I, part 91, subpart K, C.F.R., except the program must include a minimum of 25 aircraft owned or leased by the business or affiliated group providing the program. According to s. 911.1001(5), C.F.R.:

A fractional ownership program or program means any system of aircraft ownership and exchange that consists of all of the following elements:

- The provision for fractional ownership program management services by a single fractional ownership program manager on behalf of the fractional owners;
- Two or more airworthy aircraft;
- One or more fractional owners per program aircraft, with at least one program aircraft having more than one owner;
- Possession of at least a minimum fractional ownership interest in one or more program aircraft by each fractional owner;
- A dry-lease aircraft exchange arrangement among all of the fractional owners; and
- Multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

To qualify for the exemption a purchaser must provide the proper eligibility certification in a form determined by the Department of Revenue.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.02, F.S., to provide a definition for a "fractional aircraft ownership program."

Section 2: Amends s. 212.08, F.S., to provide sales and use exemptions for an aircraft for primary use pursuant to a fractional aircraft ownership program and for the parts and labor used in the maintenance, repair and overhaul of such an aircraft.

Section 3: Creates s. 212.0597, to provide a maximum tax on the sale or use of fractional aircraft ownership interests.

Section 4: Provides the act will take effect July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	FY 08-09	FY 09-10	FY 10-11
General Revenue	($0.8M)	($1M)	($1.1M)
Trust Funds	Insignificant	Insignificant	Insignificant

2. Expenditures:

The Department of Revenue may incur expenses administering the program but the department should be able to absorb these costs with current resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the Revenue Impact Estimating Conference, the bill will have a recurring negative fiscal impact on local government revenues of $200,000.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Companies interested in offering fractional aircraft ownership programs in Florida, and individuals or entities wishing to purchase interests in these aircraft, will benefit from not having to pay certain sales taxes related to their purchases and operations.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because this bill has a fiscal impact on local governments; however, an exemption applies because the fiscal impact is insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Revenue raised several issues in their analysis of the bill:

- Proposed s. 212.08(19)(a), F.S., provides that the tax imposed by Chapter 212, F.S., does not apply to the sale or use of aircraft for "primary use" in a fractional aircraft ownership program. The term "primary use" is undefined and may be too vague to properly enforce.
- Proposed s. 212.08(19)(b), F.S., provides that the sale, lease, repair, or maintenance to be exempted must be for the exclusive use of the purchaser or lessee. This proposed paragraph raises two concerns: 1) Does the phrase "purchaser or lessee" refer to the operator of the fractional aircraft ownership program or to the individual owners of fractional interests? 2) If the phrase "purchaser or lessee" refers to the operator of the program, then the operator cannot furnish the dealer with a certificate stating that the purchase or lease is for the exclusive use of the purchaser or lessee, because the operator will subsequently sell fractional interests in the aircraft.
- Proposed s. 212.0597, F.S., provides a maximum tax of $300 on the sale or use in Florida of a fractional ownership interest in aircraft pursuant to a fractional aircraft ownership program when the interest is transferred upon approval of the operator of the program. This proposed language raises several questions: 1) Does the term "transferred" include the sale of an interest or is this term limited to other forms of transfer (e.g., gifts)? 2) Does the maximum tax take into account applicable discretionary sales surtax? 3) How would a dealer record the maximum tax of $300, which is not based on a sales price, on its sales tax return? 4) When fractional interest is sold to another person, does the maximum tax of $300 apply again?

The proposed aircraft, labor, and parts exemption in s. 212.08(19), F.S., are required to be documented by a purchaser's certificate for purposes of claiming the exemptions. The Department of Revenue may have to adopt such a certificate by rule.

D. STATEMENT OF THE SPONSOR

The fiscal impact should be zero or even have a positive fiscal impact.
Without this tax exemption it is likely existing fractional aircraft companies will leave Florida and new ones will not move into the State. Under present law existing companies can legally avoid the tax by holding newly purchased aircraft out of the State for a period of six months. If we lose these companies we will lose the tax benefit of having the fastest growing sector of the aircraft industry as a part of our economy.

The impact conference analysis recognizes that the negative fiscal impact "is assuming the planes are initially domiciled (in Florida) in the first 6 months. If legal tax avoidance is 100%, the current revenue impact could be zero." It does not seem reasonable to assume that everyone would voluntarily pay taxes that they can legally avoid.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the tax on sales, use, and other transactions; amending s. 212.02, F.S.; defining the term "fractional aircraft ownership program"; amending s. 212.08, F.S.; providing exemptions for the sale or use of an aircraft for primary use pursuant to a fractional aircraft ownership program and for the parts and labor used in the maintenance, repair, and overhaul associated with aircraft sold or used pursuant to such a program; creating s. 212.0597, F.S.; providing a maximum tax on the sale or use of fractional aircraft ownership interests; providing application; providing limitations; providing an effective date.

WHEREAS, Florida has identified aviation and aerospace as targeted industries for economic development purposes, and

WHEREAS, Florida has determined that the synergy in the space, aerospace, and aviation industries attracts the world's leading businesses to the state, and

WHEREAS, Florida employs approximately 80,000 people in the aviation and aerospace industries at an average annual wage of approximately $52,000, and

WHEREAS, Florida has the third-largest aviation maintenance, repair, and overhaul cluster in the United States and has focused strategies for expanding these aviation support services, and

WHEREAS, Florida intends to remain competitive with other states as additional innovative commercial air transportation

products are developed, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (34) is added to section 212.02, Florida Statutes, to read:

212.02 Definitions.--The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(34) "Fractional aircraft ownership program" means a program that meets the requirements of Federal Aviation Administration Regulation Title 14, chapter I, part 91, subpart K, C.F.R., except that the program must include a minimum of 25 aircraft owned or leased by the business or affiliated group providing the program.

Section 2. Subsection (19) is added to section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(19) FRACTIONAL AIRCRAFT OWNERSHIP PROGRAMS.--Also exempt from the tax imposed by this chapter is the sale or use of:

(a) Aircraft for primary use in a fractional aircraft ownership program.

(b) Any parts or labor used in the completion, maintenance, repair, or overhaul of aircraft for primary use in a fractional aircraft ownership program.

The exemptions provided in this subsection are not allowed unless the purchaser or lessee furnishes the dealer with a certificate stating that the lease, purchase, repair, or maintenance to be exempted is for the exclusive use of the purchaser or lessee and that the purchaser or lessee otherwise qualifies for the exemption as provided in this subsection. If a purchaser or lessee makes tax-exempt purchases on a continual basis, the purchaser or lessee may tender the certificate once and allow the dealer to keep the certificate on file. The purchaser or lessee shall inform the dealer that has a certificate on file when the purchaser or lessee no longer qualifies for the exemption. The department shall determine the format of the certificate.

Section 3. Section 212.0597, Florida Statutes, is created to read:

212.0597 Maximum tax on fractional aircraft ownership interests.--Notwithstanding other tax rates specified in this chapter, the maximum tax on the sale or use in this state of a fractional ownership interest in aircraft pursuant to a fractional aircraft ownership program is $300. This maximum tax applies to the total consideration paid for the fractional ownership interest, including amounts paid by the fractional owner as monthly management or maintenance fees. The maximum tax applies only when such fractional ownership interest is sold by

or to the operator of the fractional aircraft ownership program or when the fractional ownership interest can be transferred only upon the approval of the operator of the fractional aircraft ownership program.

Section 4. This act shall take effect July 1, 2008.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **0217**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee on Economic Development

Representative Altman offered the following:

Amendment

Remove lines 43-80 and insert:

aircraft owned or leased by the business or affiliated group, as defined by s. 1504(a) of the Internal Revenue Code of 1986, as amended, providing the program. Such aircraft shall be used in the fractional aircraft ownership program providing the program.

Section 2. Subsection (19) is added to section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.-- The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(19) FRACTIONAL AIRCRAFT OWNERSHIP PROGRAMS.-- Also exempt from the tax imposed by this chapter is the sale or use of:

(a) Aircraft for primary use in a fractional aircraft ownership program.

(b) Any parts or labor used in the completion, maintenance, repair, or overhaul of aircraft for primary use in a fractional aircraft ownership program.

The exemptions provided in paragraphs (a) and (b) are not allowed unless the purchaser or lessee furnishes the dealer with a certificate stating that the lease, purchase, repair, or maintenance to be exempted is for aircraft for primary use in a fractional aircraft ownership program and that the purchaser or lessee otherwise qualifies for the exemption as provided in this subsection. If a purchaser or lessee makes tax-exempt purchases on a continual basis, the purchaser or lessee may tender the certificate once and allow the dealer to keep the certificate on file. The purchaser or lessee shall inform the dealer that has a certificate on file when the purchaser or lessee no longer qualifies for the exemption. The department shall determine the format of the certificate.

Section 3. Section 212.0597, Florida Statutes, is created to read:

212.0597 Maximum tax on fractional aircraft ownership interests.-- The tax imposed under this chapter, including any discretionary sales surtax under s. 212.055, shall be limited to $300 on the sale or use in this state of a fractional ownership interest in aircraft pursuant to a fractional aircraft ownership program. This maximum tax

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 877 Working Waterfront Real Property
SPONSOR(S): Needelman and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2294

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development		Suarez	Croom
2) Economic Expansion & Infrastructure Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

This bill creates s. 193.506, F.S. and provides an alternative method for counties and local governments to incentivize the maintenance and preservation of working waterfront real property. The bill provides that an owner of a working waterfront real property may convey all rights to develop the property to the local government where the property is located for a period of seven years. In turn, the county or municipality with taxing jurisdiction over the real property is authorized to accept such conveyance of development rights. The bill then requires the appropriate tax appraiser to recognize the parcel as a working waterfront real property and consider the nature and duration of the conveyance when determining the fair market value of the property. The practical effect of this conveyance is to guarantee the maintenance of the parcel as a working waterfront real property in exchange for a reduction in the taxable value of the parcel.

HB 877 additionally provides for renewal of the conveyance upon expiration of the seven year period; provides for termination prior to the expiration of the seven year period; prohibits a county or municipality from conveying development right or using development right in manner inconsistent with definition of working waterfront real property; defines "working waterfront real property;" requires a county government to include relevant provisions for working waterfront real property in their comprehensive plan; and requires certain reporting requirements by property appraisers.

This bill shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes – This bill allows counties and municipalities to enter into agreements that effectively reduce the tax liability of parcels of land qualifying as working waterfront real property.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 14 of Chapter 2005-157, Laws of Florida, created the Working Waterfronts Property Tax Deferral Program (Deferral Program) to address, in part, the need to incentivize the preservation of working waterfronts.[1] The deferral program allows qualified working waterfront property owners to defer a portion or all of their property taxes. The program requires the local governments responsible for taxing the property to adopt an ordinance establishing the program and determining the portion of the ad valorem taxes that may be deferred. The deferral program gives counties the authority to adopt an ordinance to allow for an ad valorem tax deferral for working waterfront properties. The deferral is not allowed if: (1) The deferred amount plus interest and other unsatisfied liens on the property exceed 85% of the assessed value of the property, (2) the primary financing on the property exceeds 70% of the assessed value of the property; or (3) the county where the property is located has not adopted an ordinance approving tax deferrals for working waterfronts.[2]

Furthermore, the deferral program provides that if there is a change in use of the property, all deferred tax and interest become due and payable on November 1 of the year the change in use occurs and delinquent on April 1 of the following year. Similarly, a change in ownership of the property (such as an intra-generational family transfer) causes the deferred taxes to become due and payable.[3]

A study conducted by the University of Florida determined that recreational and commercial working waterfronts have been declining in numbers throughout the state. The study conducted a survey which found that only 20 percent of working waterfront users said that they were likely to use the deferral program. Property owners expressed concern with the inability to transfer ownership of the property to family members without incurring a large tax liability for the property taxes deferred under the deferral program. The survey concluded that while some working water front property owners felt that there were certain benefits to the deferral program, most felt it was not a very practical solution.[4]

The Office of Program Policy Analysis and Government Accountability (OPPAGA) reported in December 2007 that the demand for access to coastal waterways continues to outstrip the supply of public boat ramps and other facilities.[5] OPPAGA estimates that the state's marine industry had a total economic impact of $18.4 billion in 2005 and that more than 220,000 Floridians were employed in marine industry sectors.[6] OPPAGA reported that boat manufacturers that have recently departed Florida have cited high property taxes, among other reasons, as dispositive in their decision to leave the state.

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[1] s. 197.303, F.S., *et. seq.*,

[2] Id.

[3] s. 197.3043, F.S.

[4] Recreational and Commercial Working Waterfronts in Florida: Perception of the Working Waterfronts Tax Deferral Program. Watson, Grant.

[5] Legislature May Wish to Consider Options for Enhancing Florida's Recreational Marine Industry. Office of Program Policy Analysis and Government Accountability. Report No. 07-48, December 2007.

[6] Id. Citing Florida's Recreational Marine Industry – Economic Impact and Growth 1980-2005. Thomas J. Murray and Associates, Inc. November 2005.

Effect of Proposed Changes

This bill creates s. 193.506, F.S. and provides an alternative method for counties and local governments to incentivize the maintenance and preservation of working waterfront real property. The bill provides that an owner of a working waterfront real property may convey all rights to develop the property to the local government where the property is located for a period of seven years. In turn, the county or municipality with taxing jurisdiction over the real property is authorized to accept such conveyance of development rights. The bill then requires the appropriate tax appraiser to recognize the parcel as a working waterfront real property and consider the nature and duration of the conveyance when determining the fair market value of the property. The practical effect of this conveyance is to guarantee the maintenance of the working waterfront in exchange for a reduction in the taxable value of the parcel.

The conveyance may be renewed upon agreement of the owner of the property and the local government. A property owner may terminate the conveyance prior to the expiration of the seven year period, but must pay taxes to the county or municipality equal to the difference between the amount actually paid during the time the conveyance was in effect and the amount the owner would have paid had development rights not been conveyed.

The bill provides for a county or municipality to enter into an agreement with the owner of a working waterfront real property to acquire the development rights of a property within the government's taxing authority. If the county or local government accepts such a conveyance, the bill requires the conveyance be filed with the appropriate officer for recording of the conveyance in a manner similar to any other instrument affecting title to real property. The bill prohibits a county or municipality that holds title to a development right pursuant to this bill from conveying the development right or exercising the development right in a manner inconsistent with the definition of a working waterfront real property.

The bill provides that, for purposes of ad valorem taxation, the real property subject to the conveyance be assessed at fair market value as a working waterfront real property. The bill requires that the appraiser recognize the nature and length of the restriction placed on the use of the property pursuant to the terms of the conveyance. The practical effect of this special classification is to reduce the taxable base of the working waterfront real property.

The bill defines a working waterfront real property as land that is used primarily for commercial or industrial water-dependent activities. The definition includes working waterfronts that provide public access to navigable waters and those used primarily for commercial fishing. The definition is not inclusive of hotels and motels. The definition appears to include those properties that are dependent on access to navigable waters in order to transact their normal course of business.

The bill requires that a county or municipality that acquires the development rights to working waterfront real property as provided in this bill must include within the local government comprehensive plan for such county of municipality provisions for protecting such property as a working waterfront.

The bill requires that property appraisers, for purposes of preparing tax rolls, report the assessed value of the property as well as the fair market value of the property irrespective of any negative impact on the value of the property imposed on account of the conveyance. The bill additionally requires that tax appraisers report both the classified use value (as a working waterfront real property) and the just value of the property to the department (presumably Department of Revenue).

C. SECTION DIRECTORY:

Section 1. Creates s. 193.506, F.S., and

(1) Allows the owner of a working waterfront real property to convey development rights of said property to a county or municipality for a period of 7 years for $10 and other due consideration. Provides for the conveyance to be subject to renewal upon agreement of the property owner and the county or municipality.

(2) Allows the county or municipality to accept conveyance of the development rights to a working waterfront real property as provided in section (1) and requires such instrument to be promptly filed with the appropriate officer for recording of the conveyance.

(3) Requires the appraiser to recognize the nature and length of the restriction placed on the use of the working waterfront real property pursuant to the conveyance when assessing the fair market value of the property.

(4) Prohibits the county or municipality holding title of the development right may not convey the right or otherwise exercise the right in a manner inconsistent with working waterfronts.

(5) Defines working waterfront real property.

(6) Requires a county or municipality to include within the local government comprehensive plan provisions for protecting such property as working waterfront real property.

(7) Requires the property appraiser to report the assessed value of property subject to a conveyance as its classified use value and to annually determine and report as just value the fair market value irrespective of the restriction imposed by the conveyance. Requires the property appraiser to report annually to the department the just value and classified use value of property for which the development right has been conveyed.

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:

   See FISCAL COMMENTS section below.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of working waterfront real property may experience reduced ad valorem property taxes to the extent that counties and municipalities choose to enter into agreements pursuant to this bill.

D. FISCAL COMMENTS:

This bill presents no fiscal impact to state government. Counties and local municipalities may, to the extent that they choose to enter into agreements pursuant to the terms provided in this bill, experience reduced ad valorem tax revenue from the parcels of working waterfront real property classified and assessed as such. The Revenue Estimating Conference adopted an indeterminate negative estimate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rule making authority is required to implement the full provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

As presently filed, the following technical drafting issues should be considered:

1. The term "appraiser" and "property appraiser" is used interchangeably in subsections (3) and (7)(a).
2. Subsection (4), as presently drafted, may be interpreted to imply that a county or municipality may exercise a development right acquired pursuant to the provisions of this bill so long as the exercise of such right is consistent with the definition of working waterfront real property. It does not appear that the bill otherwise intends to grant a local government or municipality this authority.
3. The term "department" as used in subsection (7)(b) is not defined. Presumably, the term refers to the Department of Revenue.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

A bill to be entitled

An act relating to working waterfront real property; creating s. 193.506, F.S.; authorizing owners of working waterfront real property to convey development rights to such property to a county or municipality; authorizing counties or municipalities to enter into agreements with owners of working waterfront real property to acquire development rights to such property for certain consideration and for certain periods; providing for renewals; authorizing owners to opt out of a conveyance under certain circumstances; providing for payment of certain additional ad valorem taxes under certain circumstances; providing procedures and requirements; providing for assessment of such property; providing a definition; requiring certain counties or municipalities to include within a local government comprehensive plan provisions to protect working waterfront property under certain circumstances; providing duties of property appraisers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 193.506, Florida Statutes, is amended to read:

193.506 Working waterfront real property; development rights purchase by local government.--

(1)(a) The owner or owners in fee of any working waterfront real property may by appropriate instrument convey

all rights to develop the property to the county or municipality in which such property is located for the sum of $10 and other valuable considerations for a period of 7 years. The conveyance shall be subject to renewal upon agreement by the owner or owners of the property and the county or municipality.

(b) Before the end of any 7-year period, the owner or owners of the property may elect to terminate the conveyance by paying to the county or municipality an amount of ad valorem taxes equal to the difference between the amount actually paid during the time the conveyance was in effect and the amount the owner or owners would have paid had development rights not been conveyed as provided under this section.

(2) A county or municipality may enter into an agreement with the owner or owners of working waterfront real property to acquire the development rights to such property as provided in subsection (1) and accept any instrument conveying a development right pursuant to subsection (1). If such instrument is accepted by the county or municipality, the instrument shall be promptly filed with the appropriate officer for recording in the same manner as any other instrument affecting title to real property.

(3) When, pursuant to this section, the development right in working waterfront property has been conveyed to a county or municipality, the real property subject to such conveyance shall be assessed at fair market value as working waterfront real property and the appraiser shall recognize the nature and length of the restriction placed on the use of the property under the provisions of the conveyance.

(4) A county or municipality that holds title to a development right pursuant to this section shall not convey that right to anyone and shall not exercise that right in any manner inconsistent with working waterfronts. Property for which the development right has been conveyed to a county or municipality under this section may not be used for any purpose inconsistent with working waterfronts.

(5) For purposes of this section, the term "working waterfront real property" means land that is used predominantly for commercial fishing purposes, used predominantly for commercial or industrial water-dependent activities, or used for public access to waters that are navigable, and includes marinas and drystacks that are open to the public, water-dependent marine manufacturing facilities, commercial fishing facilities, marine repair facilities, and support facilities for marine repair facilities.

(6) A county or municipality that acquires the development rights to working waterfront real property pursuant to this section shall include within the local government comprehensive plan for such county or municipality required under chapter 163 provisions for protecting such property as a working waterfront.

(7)(a) For the purposes of assessment roll preparation and recordkeeping, the property appraiser shall report the assessed value of property subject to a conveyance pursuant to this section as its classified use value and shall annually determine and report as just value the fair market value of such property irrespective of any negative impact that restrictions imposed or

conveyances made pursuant to this section may have had on such value.

(b) The property appraiser shall report annually to the department the just value and classified use value of property for which the development right has been conveyed.

Section 2. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **877**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Economic Development

Representative(s) Needelman offered the following:

Amendment

Remove line(s) 53 and insert:

property and the property appraiser shall recognize the nature and length

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. **877**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Economic Development

Representative(s) Needelman offered the following:

Amendment

Remove line(s) 58-62 and insert:

right to anyone and shall not exercise that right in any manner.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3 (for drafter's use only)

Bill No. **877**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Economic Development

Representative(s) Needelman offered the following:

Amendment (with title amendments)

Remove line(s) 72-76 (and renumber subsequent sections)

T I T L E A M E N D M E N T

Remove line(s) 15-18 and insert:

definition; providing duties of property

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

Bill No. **877**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Economic Development

Representative(s) Needelman offered the following:

Amendment (with directory and title amendments)

Remove line(s) 86 and insert:

Department of Revenue the just value and classified use value of the property

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 879 Early Learning

SPONSOR(S): Kelly

TIED BILLS: **IDEN./SIM. BILLS:** SB 1670

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development		West SPW	Croom SDC
2) Economic Expansion & Infrastructure Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

HB 879 transfers the requirement to establish a statewide child care resource and referral network from the Department of Children and Family Services to the Agency for Workforce Innovation. It transfers the duties of DCF with respect to the Child Care Executive Partnership Program to AWI and early learning coalitions. It also permits early learning coalition boards to engage in board business by telecommunication methods.

With regard to the Voluntary Pre-Kindergarten Program, the bill provides that: (1) private prekindergarten instructors will no longer be subject to refingerprinting procedures when they are rescreened every 5 years so long as there has been no break in employment for longer than 90 days; (2) substitute instructors will no longer have to possess the same accreditation as normal instructors, so long as they are of good moral character and screened in accordance with level 2 background screenings; and (3) accreditation standards will require written standards that meet or exceed the state's licensing standards and at least one site visit prior to the provider prior to accreditation.

In addition, the bill gives the Agency for Workforce Innovation the ability to adopt rules relating to the establishment of a statewide child care resource and referral network and the use of substitute instructors.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

Before 1999, Florida's publicly funded early education and child care programs were delivered through various independent programs, with administration of the programs divided among the Department of Education, the Department of Children and Family Services, and federal Head Start grantees.

The 1999 Legislature enacted the School Readiness Act (ch. 99-357 L.O.F.), which provided for the consolidation of each of the early education and child care programs administered by the Department of Education, the Department of Children and Family Services, and federal Head Start grantees into one integrated school readiness program. The act directed that the school readiness program would be administered by local school readiness coalitions under the coordination of the Florida Partnership for School Readiness.

The act created the Florida Partnership for School Readiness, which was assigned to the Executive Office of the Governor for administrative purposes, but which was transferred to the Agency for Workforce Innovation (AWI) in 2001.

Child Care Resource and Referral Network

Section 402.27, F.S., established the child care and early childhood resource and referral network in the Department of Children and Families, with preference given to the central agencies for the administration of this program. The network helps families identify quality early learning programs by providing information related to the type of program, hours of services, ages of children served, teacher credentials, and other significant program information. Currently, this service is provided by each county's early learning coalition.

Child Care Executive Partnership

Section 409.178, F.S., the Child Care Executive Partnership Act, established the Child Care Executive Partnership Program. The Child Care Executive Partnership Program uses state and federal funds to match local funds derived from various sources, to create community based partnerships with employers and provide child care subsidies to low-income working parents. The Legislature is required to annually review the effectiveness of the program and reevaluate the percentage of additional state or federal funds, if any, that can be used for the program's expansion.

Voluntary Pre-Kindergarten:
In the 2003 Legislative Session, Committee Substitute for Committee Substitute for Senate Bills 1334, 534, and 360 implemented Amendment No. 8 (Voluntary Universal Pre-Kindergarten Education), s. 1(b) and (c), Art. IX of the State Constitution. The committee substitute created a new voluntary universal prekindergarten education program within AWI.

Currently, to participate in the program, private prekindergarten providers that are not licensed by DCF or Gold Seal Accredited must be accredited by a member of the National Council for Private School Accreditation, the Commission on International and Trans-Regional Accreditation, or the Florida Association of Academic Nonpublic Schools.

In addition, each prekindergarten instructor must submit to level 2 background screenings every five years, which includes fingerprinting procedures. Fingerprints are sent to the Florida Department of Law Enforcement and the Federal Bureau of Investigation. In some instances, processing fingerprints can take between 6 weeks and 3 months to complete.

If an approved prekindergarten instructor is absent, present law requires the provider to hire another credentialed instructor as a substitute. This provision has placed a substantial burden on provider as credentialed instructors are not always available to fill in as substitutes when an instructor misses work.

Effect of Proposed Changes

Technical Adjustments:
The bill changes the statutory reference from Chapter 402, F.S., to Chapter 411, F.S., relating to the child care resource and referral network. This change corrects an obsolete statutory reference. The program is currently housed in AWI's Office of Early Learning and is no longer under DCF.

The bill changes the statutory reference from Chapter 409, F.S., to Chapter 411, F.S., relating to the Child Care Executive Partnership. The program is staffed by AWI's Office of Early Learning. The bill transfers administration of Child Care Executive Partnership purchasing pools from community child care coordinating agencies or the state resource and referral agency to AWI and early learning coalitions. This change corrects an obsolete statutory reference and aligns the statute to the requirements of s. 411.01(5)(c)2.g., F.S.

Governance:
The bill provides that early learning coalition boards may meet by telecommunication methods. This provision will allow for greater flexibility in the board's ability to meet and conduct board business and improve board efficiency. Currently, early learning coalition boards do not have the ability to conduct board business by telecommunication methods and must meet in person to conduct board business. Some coalitions comprise a large geographic area and travel-related issues may hinder the ability of the board to conduct business.

Voluntary Pre-Kindergarten Program:
The bill maintains the current list of accreditation associations allowed under the voluntary prekindergarten program. However, it requires in addition that each accrediting entity have written standards that meet or exceed the state's licensing requirements, and that each entity conducts at least one onsite visit to the provider before accreditation.

The bill removes the requirement of fingerprint resubmission as part of the mandatory 5-year rescreening process unless an employee has experienced a break in continuous employment of more than 90 days. This will create efficiency and reduce redundant requirements.

The bill allows providers to use a substitute instructor who does not meet the Voluntary Prekindergarten Program instructor qualifications for short periods of time in the event an instructor is absent due to no fault of the provider. A substitute instructor must be of good moral character and have submitted to level 2 background screening requirements. AWI may adopt rules governing the qualifications of substitute instructors and the circumstances and time limits for which substitute instructors may be used.

C. SECTION DIRECTORY:

Section 1. Names the legislation the "Success in Early Learning Act."

Section 2. Authorizes early learning coalition boards to meet using telecommunication methods.

Section 3. Renumbers s. 402.27, F.S., to s. 411.0101, F.S., and transfers responsibility of establishing a statewide child care resource and referral network from DCF to AWI. Provides rulemaking authority to AWI to implement the provisions of Section 3.

Section 4. Renumbers s. 409.178, F.S., to s. 411.0102, F.S., and transfers administration of Child Care Executive Partnership purchasing pools from community child care coordinating agencies or the state resource and referral agency to AWI and early learning coalitions.

Section 5. Requires private VPK Program providers to be accredited by associations that have written accreditation standards that meet or exceed the state's licensing requirements. At least one onsite visit to the VPK provider is required before accreditation is granted. Removes the requirement of fingerprint resubmission as part of the mandatory 5-year rescreening process unless an employee has experienced a break in employment of more than 90 days. This section also allows for the temporary placement of a substitute instructor who does not meet the VPK instructor qualifications.

Section 6. Removes the requirement for public schools and private prekindergarten providers of the summer prekindergarten program to resubmit a fingerprint as part of the mandatory 5-year rescreening process unless an employee has experienced a break in continuous employment of more than 90 days. This section also allows for the temporary placement of a substitute instructor who does not meet the Voluntary Prekindergarten Program instructor qualifications.

Section 7. Removes the requirement for public schools delivering the school-year prekindergarten program to resubmit a fingerprint as part of the mandatory 5-year rescreening process unless an employee has experienced a break in continuous employment of more than 90 days. This section also allows for the temporary placement of a substitute instructor who does not meet the Voluntary Prekindergarten Program instructor qualifications.

Section 8. Provides an effective date of July 1, 2008.

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:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Voluntary prekindergarten providers will save $19.25 every five years per employee on the fee for Level 2 fingerprint screening on the FBI fingerprint clearance.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill gives the Agency for Workforce Innovation authority to adopt rules necessary for the implementation of substitute instructors by voluntary prekindergarten providers and the administration of the statewide child care resource and referral network.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR:

No statement was submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

A bill to be entitled

An act relating to early learning; providing a short title; amending s. 411.01, F.S.; authorizing use of telecommunication methods in conducting early learning coalition board meetings; amending and renumbering s. 402.27, F.S.; transferring requirements for the establishment of a statewide child care resource and referral network by the Department of Children and Family Services to the Agency for Workforce Innovation; providing for use of early learning coalitions as child care resource and referral agencies; requiring rulemaking; amending and renumbering s. 409.178, F.S.; transferring duties of the Department of Children and Family Services with respect to the Child Care Executive Partnership Program to the Agency for Workforce Innovation and early learning coalitions; requiring rulemaking; amending ss. 1002.55, 1002.61, and 1002.63, F.S., relating to the Voluntary Prekindergarten Education Program; providing additional accreditation standards for private prekindergarten providers; revising background screening requirements for prekindergarten instructors; providing requirements for assignment of substitute instructors; requiring rulemaking; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Success in Early Learning Act."

Section 2. Paragraph (a) of subsection (5) of section 411.01, Florida Statutes, is amended to read:

411.01 School readiness programs; early learning coalitions.--

(5) CREATION OF EARLY LEARNING COALITIONS.--

(a) Early learning coalitions.--

1. The Agency for Workforce Innovation shall establish the minimum number of children to be served by each early learning coalition through the coalition's school readiness program. The Agency for Workforce Innovation may only approve school readiness plans in accordance with this minimum number. The minimum number must be uniform for every early learning coalition and must:

a. Permit 30 or fewer coalitions to be established; and

b. Require each coalition to serve at least 2,000 children based upon the average number of all children served per month through the coalition's school readiness program during the previous 12 months.

The Agency for Workforce Innovation shall adopt procedures for merging early learning coalitions, including procedures for the consolidation of merging coalitions, and for the early termination of the terms of coalition members which are necessary to accomplish the mergers. Each early learning coalition must comply with the merger procedures and shall be organized in accordance with this subparagraph by April 1, 2005.

By June 30, 2005, each coalition must complete the transfer of powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds to the successor coalition, if applicable.

2. If an early learning coalition would serve fewer children than the minimum number established under subparagraph 1., the coalition must merge with another county to form a multicounty coalition. However, the Agency for Workforce Innovation may authorize an early learning coalition to serve fewer children than the minimum number established under subparagraph 1., if:

a. The coalition demonstrates to the Agency for Workforce Innovation that merging with another county or multicounty region contiguous to the coalition would cause an extreme hardship on the coalition;

b. The Agency for Workforce Innovation has determined during the most recent annual review of the coalition's school readiness plan, or through monitoring and performance evaluations conducted under paragraph (4)(l), that the coalition has substantially implemented its plan and substantially met the performance standards and outcome measures adopted by the agency; and

c. The coalition demonstrates to the Agency for Workforce Innovation the coalition's ability to effectively and efficiently implement the Voluntary Prekindergarten Education Program.

If an early learning coalition fails or refuses to merge as required by this subparagraph, the Agency for Workforce Innovation may dissolve the coalition and temporarily contract with a qualified entity to continue school readiness and prekindergarten services in the coalition's county or multicounty region until the coalition is reestablished through resubmission of a school readiness plan and approval by the agency.

3. Notwithstanding the provisions of subparagraphs 1. and 2., the early learning coalitions in Sarasota, Osceola, and Santa Rosa Counties which were in operation on January 1, 2005, are established and authorized to continue operation as independent coalitions, and shall not be counted within the limit of 30 coalitions established in subparagraph 1.

4. Each early learning coalition shall be composed of at least 18 members but not more than 35 members. The Agency for Workforce Innovation shall adopt standards establishing within this range the minimum and maximum number of members that may be appointed to an early learning coalition. These standards must include variations for a coalition serving a multicounty region. Each early learning coalition must comply with these standards.

5. The Governor shall appoint the chair and two other members of each early learning coalition, who must each meet the same qualifications as private sector business members appointed by the coalition under subparagraph 7.

6. Each early learning coalition must include the following members:

a. A Department of Children and Family Services district administrator or his or her designee who is authorized to make decisions on behalf of the department.

b. A district superintendent of schools or his or her designee who is authorized to make decisions on behalf of the district, who shall be a nonvoting member.

c. A regional workforce board executive director or his or her designee.

d. A county health department director or his or her designee.

e. A children's services council or juvenile welfare board chair or executive director, if applicable, who shall be a nonvoting member if the council or board is the fiscal agent of the coalition or if the council or board contracts with and receives funds from the coalition.

f. An agency head of a local licensing agency as defined in s. 402.302, where applicable.

g. A president of a community college or his or her designee.

h. One member appointed by a board of county commissioners.

i. A central agency administrator, where applicable, who shall be a nonvoting member.

j. A Head Start director, who shall be a nonvoting member.

k. A representative of private child care providers, including family day care homes, who shall be a nonvoting member.

1. A representative of faith-based child care providers, who shall be a nonvoting member.

m. A representative of programs for children with disabilities under the federal Individuals with Disabilities Education Act, who shall be a nonvoting member.

7. Including the members appointed by the Governor under subparagraph 5., more than one-third of the members of each early learning coalition must be private sector business members who do not have, and none of whose relatives as defined in s. 112.3143 has, a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program created under part V of chapter 1002 or the coalition's school readiness program. To meet this requirement an early learning coalition must appoint additional members from a list of nominees submitted to the coalition by a chamber of commerce or economic development council within the geographic region served by the coalition. The Agency for Workforce Innovation shall establish criteria for appointing private sector business members. These criteria must include standards for determining whether a member or relative has a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program or the coalition's school readiness program.

8. A majority of the voting membership of an early learning coalition constitutes a quorum required to conduct the business of the coalition. An early learning coalition board may use any method of telecommunications to conduct meetings, including establishing a quorum through telecommunications,

provided that the public is given proper notice of a telecommunications meeting and reasonable access to observe and, when appropriate, participate.

9. A voting member of an early learning coalition may not appoint a designee to act in his or her place, except as otherwise provided in this paragraph. A voting member may send a representative to coalition meetings, but that representative does not have voting privileges. When a district administrator for the Department of Children and Family Services appoints a designee to an early learning coalition, the designee is the voting member of the coalition, and any individual attending in the designee's place, including the district administrator, does not have voting privileges.

10. Each member of an early learning coalition is subject to ss. 112.313, 112.3135, and 112.3143. For purposes of s. 112.3143(3)(a), each voting member is a local public officer who must abstain from voting when a voting conflict exists.

11. For purposes of tort liability, each member or employee of an early learning coalition shall be governed by s. 768.28.

12. An early learning coalition serving a multicounty region must include representation from each county.

13. Each early learning coalition shall establish terms for all appointed members of the coalition. The terms must be staggered and must be a uniform length that does not exceed 4 years per term. Appointed members may serve a maximum of two consecutive terms. When a vacancy occurs in an appointed position, the coalition must advertise the vacancy.

Section 3. Section 402.27, Florida Statutes, is renumbered as section 411.0101, Florida Statutes, and amended to read:

411.0101 ~~402.27~~ Child care and early childhood resource and referral.--The Agency for Workforce Innovation ~~Department of Children and Family Services~~ shall establish a statewide child care resource and referral network. Preference shall be given to using the already established early learning coalitions ~~central agencies for subsidized child care~~ as the child care resource and referral agency. If an early learning coalition ~~the agency~~ cannot comply with the requirements to offer the resource information component or does not want to offer that service, the early learning coalition ~~Department of Children and Family Services~~ shall select the resource information agency based upon a request for proposal pursuant to s. 411.01(5)(e)1. At least one child care resource and referral agency must be established in each early learning coalition's county or multicounty region ~~district of the department, but no more than one may be established in any county~~. Child care resource and referral agencies shall provide the following services:

(1) Identification of existing public and private child care and early childhood education services, including child care services by public and private employers, and the development of a resource file of those services. These services may include family day care, public and private child care programs, head start, prekindergarten early intervention programs, special education programs for prekindergarten handicapped children, services for children with developmental disabilities, full-time and part-time programs, before-school

and after-school programs, vacation care programs, parent education, the WAGES Program, and related family support services. The resource file shall include, but not be limited to:

(a) Type of program.

(b) Hours of service.

(c) Ages of children served.

(d) Number of children served.

(e) Significant program information.

(f) Fees and eligibility for services.

(g) Availability of transportation.

(2) The establishment of a referral process which responds to parental need for information and which is provided with full recognition of the confidentiality rights of parents. Resource and referral programs shall make referrals to licensed child care facilities. Referrals shall be made to an unlicensed child care facility or arrangement only if there is no requirement that the facility or arrangement be licensed.

(3) Maintenance of ongoing documentation of requests for service tabulated through the internal referral process. The following documentation of requests for service shall be maintained by all child care resource and referral agencies:

(a) Number of calls and contacts to the child care information and referral agency component by type of service requested.

(b) Ages of children for whom service was requested.

(c) Time category of child care requests for each child.

(d) Special time category, such as nights, weekends, and swing shift.

(e) Reason that the child care is needed.

(f) Name of the employer and primary focus of the business.

(4) Provision of technical assistance to existing and potential providers of child care services. This assistance may include:

(a) Information on initiating new child care services, zoning, and program and budget development and assistance in finding such information from other sources.

(b) Information and resources which help existing child care services providers to maximize their ability to serve children and parents in their community.

(c) Information and incentives which could help existing or planned child care services offered by public or private employers seeking to maximize their ability to serve the children of their working parent employees in their community, through contractual or other funding arrangements with businesses.

(5) Assistance to families and employers in applying for various sources of subsidy including, but not limited to, subsidized child care, head start, prekindergarten early intervention programs, Project Independence, private scholarships, and the federal dependent care tax credit.

(6) Assistance to state agencies in determining the market rate for child care.

(7) Assistance in negotiating discounts or other special arrangements with child care providers.

(8) Information and assistance to local interagency councils coordinating services for prekindergarten handicapped children.

(9) Assistance to families in identifying summer recreation camp and summer day camp programs and in evaluating the health and safety qualities of summer recreation camp and summer day camp programs and in evaluating the health and safety qualities of summer camp programs. Contingent upon specific appropriation, a checklist of important health and safety qualities that parents can use to choose their summer camp programs shall be developed and distributed in a manner that will reach parents interested in such programs for their children.

(10) A child care facility licensed under s. 402.305 and licensed and registered family day care homes must provide the statewide child care and resource and referral agencies with the following information annually:

(a) Type of program.

(b) Hours of service.

(c) Ages of children served.

(d) Fees and eligibility for services.

(11) The Agency for Workforce Innovation shall adopt any rules necessary for the implementation and administration of this section.

Section 4. Section 409.178, Florida Statutes, is renumbered as section 411.0102, Florida Statutes, and subsection

(4), paragraphs (b), (c), and (d) of subsection (5), and subsection (6) of that section are amended to read:

411.0102 ~~409.178~~ Child Care Executive Partnership Act; findings and intent; grant; limitation; rules.--

(4) The Child Care Executive Partnership, staffed by the Agency for Workforce Innovation ~~department~~, shall consist of a representative of the Executive Office of the Governor and nine members of the corporate or child care community, appointed by the Governor.

(a) Members shall serve for a period of 4 years, except that the representative of the Executive Office of the Governor shall serve at the pleasure of the Governor.

(b) The Child Care Executive Partnership shall be chaired by a member chosen by a majority vote and shall meet at least quarterly and at other times upon the call of the chair.

(c) Members shall serve without compensation, but may be reimbursed for per diem and travel expenses in accordance with s. 112.061.

(d) The Child Care Executive Partnership shall have all the powers and authority, not explicitly prohibited by statute, necessary to carry out and effectuate the purposes of this section, as well as the functions, duties, and responsibilities of the partnership, including, but not limited to, the following:

1. Assisting in the formulation and coordination of the state's child care policy.

2. Adopting an official seal.

3. Soliciting, accepting, receiving, investing, and expending funds from public or private sources.

4. Contracting with public or private entities as necessary.

5. Approving an annual budget.

6. Carrying forward any unexpended state appropriations into succeeding fiscal years.

7. Providing a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate, on or before December 1 of each year.

(5)

(b) To ensure a seamless service delivery and ease of access for families, an early learning coalition ~~the community coordinated child care agencies~~ or the ~~state resource and referral~~ Agency for Workforce Innovation shall administer the child care purchasing pool funds.

(c) The Agency for Workforce Innovation ~~department~~, in conjunction with the Child Care Executive Partnership, shall develop procedures for disbursement of funds through the child care purchasing pools. In order to be considered for funding, an early learning coalition ~~the community coordinated child care agency~~ or the ~~statewide resource and referral~~ Agency for Workforce Innovation must commit to:

1. Matching the state purchasing pool funds on a dollar-for-dollar basis; and

2. Expending only those public funds which are matched by employers, local government, and other matching contributors who contribute to the purchasing pool. Parents shall also pay a fee,

which shall be not less than the amount identified in the early learning coalition's ~~department's~~ subsidized child care sliding fee scale.

(d) Each early learning coalition ~~community coordinated child care agency~~ shall be required to establish a community child care task force for each child care purchasing pool. The task force must be composed of employers, parents, private child care providers, and one representative from the local children's services council, if one exists in the area of the purchasing pool. The early learning coalition ~~community coordinated child care agency~~ is expected to recruit the task force members from existing child care councils, commissions, or task forces already operating in the area of a purchasing pool. A majority of the task force shall consist of employers. Each task force shall develop a plan for the use of child care purchasing pool funds. The plan must show how many children will be served by the purchasing pool, how many will be new to receiving child care services, and how the early learning coalition ~~community coordinated child care agency~~ intends to attract new employers and their employees to the program.

(6) The Agency for Workforce Innovation ~~Department of Children and Family Services~~ shall adopt any rules necessary for the implementation and administration of this section.

Section 5. Subsection (3) of section 1002.55, Florida Statutes, is amended to read:

1002.55 School-year prekindergarten program delivered by private prekindergarten providers.--

(3) To be eligible to deliver the prekindergarten program, a private prekindergarten provider must meet each of the following requirements:

(a) The private prekindergarten provider must be a child care facility licensed under s. 402.305, family day care home licensed under s. 402.313, large family child care home licensed under s. 402.3131, nonpublic school exempt from licensure under s. 402.3025(2), or faith-based child care provider exempt from licensure under s. 402.316.

(b) The private prekindergarten provider must:

1. Be accredited by an accrediting association that is a member of the National Council for Private School Accreditation, the Commission on International and Trans-Regional Accreditation, or the Florida Association of Academic Nonpublic Schools and have written accreditation standards that meet or exceed the state's licensing requirements under s. 402.305, s. 402.313, or s. 402.3131 and require at least one on-site visit to the provider or school before accreditation is granted;

2. Hold a current Gold Seal Quality Care designation under s. 402.281; or

3. Be licensed under s. 402.305, s. 402.313, or s. 402.3131 and demonstrate, before delivering the Voluntary Prekindergarten Education Program, as verified by the early learning coalition, that the provider meets each of the requirements of the program under this part, including, but not limited to, the requirements for credentials and background screenings of prekindergarten instructors under paragraphs (c) and (d), minimum and maximum class sizes under paragraph (f) ~~(e)~~,

prekindergarten director credentials under paragraph (g) ~~(f)~~, and a developmentally appropriate curriculum under s. 1002.67(2)(b).

(c) The private prekindergarten provider must have, for each prekindergarten class, at least one prekindergarten instructor who meets each of the following requirements:

1. The prekindergarten instructor must hold, at a minimum, one of the following credentials:

a. A child development associate credential issued by the National Credentialing Program of the Council for Professional Recognition; or

b. A credential approved by the Department of Children and Family Services as being equivalent to or greater than the credential described in sub-subparagraph a.

The Department of Children and Family Services may adopt rules under ss. 120.536(1) and 120.54 which provide criteria and procedures for approving equivalent credentials under sub-subparagraph b.

2. The prekindergarten instructor must successfully complete an emergent literacy training course approved by the department as meeting or exceeding the minimum standards adopted under s. 1002.59. This subparagraph does not apply to a prekindergarten instructor who successfully completes approved training in early literacy and language development under s. 402.305(2)(d)5., s. 402.313(6), or s. 402.3131(5) before the establishment of one or more emergent literacy training courses under s. 1002.59 or April 1, 2005, whichever occurs later.

(d) Each prekindergarten instructor employed by the private prekindergarten provider must be of good moral character, shall be subject to ~~must be screened using the~~ level 2 background screening requirements in chapter 435, and must be ~~standards in s. 435.04 before employment and~~ rescreened ~~at least once~~ every 5 years. The 5-year rescreening shall not require refingerprinting unless the instructor has experienced a break in covered employment of more than 90 days. A prekindergarten instructor~~, must be denied employment or terminated if required under s. 435.06, and~~ must not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked.

(e) A private prekindergarten provider may assign a substitute instructor to temporarily replace a credentialed instructor if the credentialed instructor assigned to a prekindergarten class is absent, as long as the substitute instructor is of good moral character and has been screened in accordance with level 2 background screening requirements in chapter 435. The Agency for Workforce Innovation shall adopt rules to implement this paragraph which shall include required qualifications of substitute instructors and the circumstances and time limits for which a private prekindergarten provider may assign a substitute instructor.

(f) ~~(e)~~ Each of the private prekindergarten provider's prekindergarten classes must be composed of at least 4 students but may not exceed 18 students. In order to protect the health and safety of students, each private prekindergarten provider must also provide appropriate adult supervision for students at

all times and, for each prekindergarten class composed of 11 or more students, must have, in addition to a prekindergarten instructor who meets the requirements of paragraph (c), at least one adult prekindergarten instructor who is not required to meet those requirements but who must meet each requirement of paragraph (d). This paragraph does not supersede any requirement imposed on a provider under ss. 402.301-402.319.

(g) ~~(f)~~ Before the beginning of the 2006-2007 school year, the private prekindergarten provider must have a prekindergarten director who has a prekindergarten director credential that is approved by the department as meeting or exceeding the minimum standards adopted under s. 1002.57. Successful completion of a child care facility director credential under s. 402.305(2)(f) before the establishment of the prekindergarten director credential under s. 1002.57 or July 1, 2006, whichever occurs later, satisfies the requirement for a prekindergarten director credential under this paragraph.

(h) ~~(g)~~ The private prekindergarten provider must register with the early learning coalition on forms prescribed by the Agency for Workforce Innovation.

(i) ~~(h)~~ The private prekindergarten provider must deliver the Voluntary Prekindergarten Education Program in accordance with this part.

Section 6. Section 1002.61, Florida Statutes, is amended to read:

1002.61 Summer prekindergarten program delivered by public schools and private prekindergarten providers.--

(1)(a) Each school district shall administer the Voluntary Prekindergarten Education Program at the district level for students enrolled under s. 1002.53(3)(b) in a summer prekindergarten program delivered by a public school.

(b) Each early learning coalition shall administer the Voluntary Prekindergarten Education Program at the county or regional level for students enrolled under s. 1002.53(3)(b) in a summer prekindergarten program delivered by a private prekindergarten provider.

(2) Each summer prekindergarten program delivered by a public school or private prekindergarten provider must:

(a) Comprise at least 300 instructional hours;

(b) Not begin earlier than May 1 of the school year; and

(c) Not deliver the program for a child earlier than the summer immediately before the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2.

(3)(a) Each district school board shall determine which public schools in the school district are eligible to deliver the summer prekindergarten program. The school district shall use educational facilities available in the public schools during the summer term for the summer prekindergarten program.

(b) Except as provided in this section, to be eligible to deliver the summer prekindergarten program, a private prekindergarten provider must meet each requirement in s. 1002.55.

(4) Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(5), each public school and private prekindergarten provider must

have, for each prekindergarten class, at least one prekindergarten instructor who:

(a) Is a certified teacher; or

(b) Holds one of the educational credentials specified in s. 1002.55(4)(a) or (b).

As used in this subsection, the term "certified teacher" means a teacher holding a valid Florida educator certificate under s. 1012.56 who has the qualifications required by the district school board to instruct students in the summer prekindergarten program. In selecting instructional staff for the summer prekindergarten program, each school district shall give priority to teachers who have experience or coursework in early childhood education.

(5) Each prekindergarten instructor employed by a public school or private prekindergarten provider delivering the summer prekindergarten program must be of good moral character, shall be subject to ~~must be screened using the~~ level 2 background screening requirements in chapter 435, and must be ~~standards in s. 435.04 before employment and~~ rescreened ~~at least once~~ every 5 years. The 5-year rescreening shall not require refingerprinting unless the instructor has experienced a break in covered employment of more than 90 days. A prekindergarten instructor~~,~~ ~~must be denied employment or terminated if required under s. 435.06, and~~ must not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked. This subsection does not supersede employment requirements for

instructional personnel in public schools which are more stringent than the requirements of this subsection.

(6) A public school or private prekindergarten provider may assign a substitute instructor to temporarily replace a credentialed instructor if the credentialed instructor assigned to a prekindergarten class is absent, as long as the substitute instructor is of good moral character and has been screened in accordance with level 2 background screening requirements in chapter 435. The Agency for Workforce Innovation shall adopt rules to implement this subsection which shall include required qualifications of substitute instructors and the circumstances and time limits for which a public school or private prekindergarten provider may assign a substitute instructor.

(7) ~~(6)~~ Notwithstanding ss. 1002.55(3)(f) ~~(e)~~ and 1002.63(8) ~~(7)~~, each prekindergarten class in the summer prekindergarten program, regardless of whether the class is a public school's or private prekindergarten provider's class, must be composed of at least 4 students but may not exceed 10 students. In order to protect the health and safety of students, each public school or private prekindergarten provider must also provide appropriate adult supervision for students at all times. This subsection does not supersede any requirement imposed on a provider under ss. 402.301-402.319.

(8) ~~(7)~~ Each public school delivering the summer prekindergarten program must also:

(a) Register with the early learning coalition on forms prescribed by the Agency for Workforce Innovation; and

(b) Deliver the Voluntary Prekindergarten Education Program in accordance with this part.

Section 7. Section 1002.63, Florida Statutes, is amended to read:

1002.63 School-year prekindergarten program delivered by public schools.--

(1) Each school district eligible under subsection (4) may administer the Voluntary Prekindergarten Education Program at the district level for students enrolled under s. 1002.53(3)(c) in a school-year prekindergarten program delivered by a public school.

(2) Each school-year prekindergarten program delivered by a public school must comprise at least 540 instructional hours.

(3) The district school board of each school district eligible under subsection (4) shall determine which public schools in the district are eligible to deliver the prekindergarten program during the school year.

(4) To be eligible to deliver the prekindergarten program during the school year, each school district must meet both of the following requirements:

(a) The district school board must certify to the State Board of Education that the school district:

1. Has reduced the average class size in each classroom in accordance with s. 1003.03 and the schedule in s. 1(a), Art. IX of the State Constitution; and

2. Has sufficient satisfactory educational facilities and capital outlay funds to continue reducing the average class size in each classroom in the district's elementary schools for each

year in accordance with the schedule for class size reduction and to achieve full compliance with the maximum class sizes in s. 1(a), Art. IX of the State Constitution by the beginning of the 2010-2011 school year.

(b) The Commissioner of Education must certify to the State Board of Education that the department has reviewed the school district's educational facilities, capital outlay funds, and projected student enrollment and concurs with the district school board's certification under paragraph (a).

(5) Each public school must have, for each prekindergarten class, at least one prekindergarten instructor who meets each requirement in s. 1002.55(3)(c) for a prekindergarten instructor of a private prekindergarten provider.

(6) Each prekindergarten instructor employed by a public school delivering the school-year prekindergarten program must be of good moral character, shall be subject to ~~must be screened using the~~ level 2 background screening requirements in chapter 435, and must be ~~standards in s. 435.04 before employment and~~ rescreened ~~at least once~~ every 5 years. The 5-year rescreening shall not require refingerprinting unless the instructor has experienced a break in covered employment of more than 90 days. A prekindergarten instructor~~, must be denied employment or terminated if required under s. 435.06, and~~ must not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked. This subsection does not supersede employment requirements for instructional personnel in public schools which are more stringent than the requirements of this subsection.

(7) A public school prekindergarten provider may assign a substitute instructor to temporarily replace a credentialed instructor if the credentialed instructor assigned to a prekindergarten class is absent, as long as the substitute instructor is of good moral character and has been screened in accordance with level 2 background screening requirements in chapter 435. The Agency for Workforce Innovation shall adopt rules to implement this subsection which shall include required qualifications of substitute instructors and the circumstances and time limits for which a public school prekindergarten provider may assign a substitute instructor.

(8) ~~(7)~~ Each prekindergarten class in a public school delivering the school-year prekindergarten program must be composed of at least 4 students but may not exceed 18 students. In order to protect the health and safety of students, each school must also provide appropriate adult supervision for students at all times and, for each prekindergarten class composed of 11 or more students, must have, in addition to a prekindergarten instructor who meets the requirements of s. 1002.55(3)(c), at least one adult prekindergarten instructor who is not required to meet those requirements but who must meet each requirement of subsection (6).

(9) ~~(8)~~ Each public school delivering the school-year prekindergarten program must:

(a) Register with the early learning coalition on forms prescribed by the Agency for Workforce Innovation; and

(b) Deliver the Voluntary Prekindergarten Education Program in accordance with this part.

Section 8. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1055 Space Industry
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:** SB 2526

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development		Pennell	Croom
2) Economic Expansion & Infrastructure Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

HB 1055 creates a multi-university Space Technology and Research Diversification Initiative (STRDI) within the Governor's Office of Tourism, Trade and Economic Development (OTTED). The initiative will be a university-led program to develop high-impact space research and applied technology programs that will advance the state's interests in space industry expansion and diversification. The research will be performed by a consortium of universities, with a main campus located in Brevard, Volusia, or Orange County. The initiative will be centrally administered at the Space Life Sciences Laboratory by the Joint Institute for Space Exploration Research and the Spaceport Research and Technology Institute. The areas of focus will be as follows:

- Spaceflight biomedical countermeasures to address problems with sustained human spaceflight;
- Commercial space transportation programs and microgravity research as part of the Hawking Center program;
- Spaceport and range technologies and commercialization, including Earth, Moon, and Mars spaceports;
- Space and upper atmosphere science research; and
- The recruitment of out-of-state, world class space researchers to Florida universities.

The bill also requires Space Florida to support the development and operation of the STRDI, including advisory support, access to the Space Life Sciences Laboratory, and providing grant funding for projects that support the state's objectives for space industry expansion and diversification.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

B. EFFECT OF PROPOSED CHANGES:

Present Situation

In early 2004, President Bush and the National Aeronautics and Space Administration (NASA) announced a new "Vision for Space Exploration" that will send humans beyond Earth orbit for the first time since 1972. Consequently, the Space Shuttle program is scheduled to end in 2010 and the next phase of human space flight, called Constellation, will likely launch after 2015. During this five year period, NASA is soliciting private companies to provide crew and cargo services for the International Space Station through its Commercial Orbital Transportation Services (COTS) program. The prevailing belief is that Florida is facing a potential reduction to our position as the premier location for space exploration and a potential loss of a highly skilled workforce that has been associated with the shuttle program.

In 2006, the legislature created Space Florida within Chapter 331, Florida Statutes, as the successor organization to the Florida Space Authority, the Florida Space Research Institute and the Florida Aerospace Finance Corporation. Space Florida is responsible for fostering the growth and development of a sustainable and world-leading aerospace industry in this state. Some actions in Space Florida's strategic plan include:

- To broaden the State's presence in the space industry beyond launch activity to include the R&D, design, manufacturing, assembly, testing, launch, and servicing of space vehicles; and
- Expand and focus use of the Space Life Sciences Laboratory by providing unparalleled research facilities to be used by the world's brightest scientists to solve high priority space-related problems.

In 2001, The Florida Space Authority broke ground on what was originally called the Space Experiment Research and Processing Laboratory (SERPL), which has since been renamed the Space Life Sciences Lab (SLS Lab). Now owned by Space Florida, the SLS Lab is a world-class laboratory with all the capability and systems necessary to host International Space Station experiment processing as well as associated biological and life sciences research.

Centers of Excellence

A Center of Excellence is defined as an organization of personnel, facilities, and equipment established for the purpose of investing in programs that attract world class scholars and building Centers of Excellence as an important means of increasing technology-based business in this state; requiring co-investment as a means of leveraging state dollars; aligning research and development efforts with established, statewide economic development strategies, including an emphasis on identified economic clusters; facilitating value-added job creation through continuous improvement in university research, as well as entrepreneurship and capital development programs; and establishing Florida as a leading state for entrepreneurship and innovation, with continued commitment to university Centers of Excellence and an expanding base of research and development.

In 2002, the legislature passed the Technology Development Act, which resulted in three centers of excellence that were awarded through the Florida Research Consortium, including the Center of Excellence in Regenerative Health Biotechnology at the University of Florida ($10 million), the Florida Photonics Center of Excellence at the University of Central Florida ($10 million), and the Center of Excellence in Biomedical and Marine Biotechnology ($10 million).

Additionally, the 2006 legislature passed the 21st Century Technology, Research, and Scholarship Enhancement Act which created 6 centers of excellence, that were awarded through the Board of Governors, including the Center of Excellence in Advanced Materials at Florida State University ($4 million), the Florida Center of Excellence for Biomolecular Identification and Targeted Therapeutics at the University of South Florida ($8 million), the Center of Excellence in Ocean Energy Technology at Florida Atlantic University ($5 million), the FISE Energy Technology Incubator at the University of Florida ($4.5 million), the Center of Excellence in Laser Technology at the University of Central Florida ($4.5 million), and the Center for Nano-Bio Sensors at the University of Florida ($4 million).

Under the 21st Century Technology, Research, and Scholarship Enhancement Act, there were two proposals associated with space and aerospace submitted to the Board of Governors. The Joint Institute for Space Exploration Research consortium included Embry-Riddle Aeronautical University, the Florida Institute of Technology, and Florida State University. The other team was led by the University of Central Florida in partnership with the University of Florida.

Effect of Proposed Change

HB 1055 creates a multi-university Space Technology and Research Diversification Initiative (STRDI) within the Governor's Office of Tourism, Trade and Economic Development (OTTED). The initiative will be a university-led initiative to develop high-impact space research and applied technology programs that will advance the state's interests in space industry expansion and diversification. The research will be performed by a consortium of Universities, with a main campus located in Brevard, Volusia, or Orange County. The initiative will be centrally administered at the Space Life Sciences Laboratory by the Joint Institute for Space Exploration Research and the Spaceport Research and Technology Institute. The areas of focus will be as follows:

- Spaceflight biomedical countermeasures to address problems with sustained human spaceflight;
- Commercial space transportation programs and microgravity research as part of the Hawking Center program;
- Spaceport and range technologies and commercialization, including Earth, Moon, and Mars spaceports;
- Space and upper atmosphere science research; and
- The recruitment of out-of-state, world class space researchers to Florida universities.

The bill also requires Space Florida to support the development and operation of the STRDI, including advisory support, access to the Space Life Sciences Laboratory, and providing grant funding for projects that support the state's objectives for space industry expansion and diversification.

C. SECTION DIRECTORY:

Section 1: Provides the short title as "Space Technology Research and Diversification Initiative Act."

Section 2: Provides legislative findings.

Section 3: Amends s. 331.3051, F.S. relating to the duties of Space Florida.

Section 4: Creates s. 331.365 relating to the Space Technology and Research Diversification Initiative within the Office of Tourism, Trade and Economic Development.

Section 5: Allows for an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures: See Fiscal Comments.

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There is no direct economic impact on the private sector.

D. FISCAL COMMENTS:

HB 1055 creates an initiative that would require funding in order to implement. Currently, the bill does not include any appropriation of state funds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the space industry; providing a short title; providing legislative findings; amending s. 331.3051, F.S.; revising duties of Space Florida to include supporting the development and operation of the Space Technology and Research Diversification Initiative; creating s. 331.365, F.S.; establishing the multiuniversity Space Technology and Research Diversification Initiative within the Office of Tourism, Trade, and Economic Development; providing for duties and administration; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Short title.--This act may be cited as the "Space Technology Research and Diversification Initiative Act."

Section 2. Legislative findings.--The Legislature finds and declares that the anticipated impacts of the National Aeronautics and Space Administration's retirement of the Space Shuttle program reveal an underlying lack of diversification in Florida's space industry. Florida lags significantly behind other states in high-value, space-related research and technology development, resulting in an economic reliance on launch-related programs. The Legislature finds that the state should expand statewide involvement in space research and technology development programs involving multiple universities, industry, the National Aeronautics and Space Administration, and the military.

Section 3. Paragraph (c) is added to subsection (8) of section 331.3051, Florida Statutes, to read:

331.3051 Duties of Space Florida.--Space Florida shall:

(8) Carry out its responsibility for research and development by:

(c) Supporting the development and operation of the Space Technology and Research Diversification Initiative, a multiuniversity collaboration led by the Joint Institute for Space Exploration Research and the Spaceport Research and Technology Institute. Such support shall include, but not be limited to:

1. Advisory support for defining the focus and scope of multiuniversity projects.

2. Access to the Cape Canaveral Spaceport and facilities, including, but not limited to, the Space Life Sciences Laboratory for research and program management.

3. Grant funding for projects that support the state's objectives for space industry expansion and diversification.

Section 4. Section 331.365, Florida Statutes, is created to read:

331.365 Office of Tourism, Trade, and Economic Development; Space Technology and Research Diversification Initiative.--

(1) There is established within the Office of Tourism, Trade, and Economic Development a multiuniversity Space Technology and Research Diversification Initiative. The initiative shall be a university-led program to develop high-impact space research and applied technology programs that will

advance the state's interests in space industry expansion and diversification. The initiative research shall be performed by a consortium of universities with a main campus located in Brevard, Volusia, or Orange County and shall include, but not be limited to, the following focus areas:

(a) Research into spaceflight biomedical countermeasures to address problems associated with sustained human spaceflight and exploration and human factors research for commercial human spaceflight.

(b) Research, technology, policy, and engineering support for new government and commercial space transportation programs and microgravity research as part of the Hawking Center program.

(c) Research and development for spaceport and range technologies and commercialization, including Earth, Moon, and Mars spaceport technologies that are priorities for the National Aeronautics and Space Administration and matching support for the Florida-NASA Matching Grant Program.

(d) Research and development for space and upper atmospheric science, including, but not limited to, a statewide undergraduate-oriented, microsatellite and space instrument/experiment design program, and space-based computing technologies.

(e) The recruitment of out-of-state, world-class space researchers to Florida universities.

(2) The initiative shall be centrally administered at the Space Life Sciences Laboratory by the Joint Institute for Space Exploration Research and the Spaceport Research and Technology Institute with advisory and other support provided by Space

Florida. The administering partners shall make a best effort to maximize matching investments from industry, the National Aeronautics and Space Administration, the Department of Defense, and other organizations.

Section 5. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1379 Tax on Sales, Use, and Other Transactions
SPONSOR(S): Poppell
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development		West SRW	Croom
2) Economic Expansion & Infrastructure Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

HB 1379 amends s. 212.05, F.S., to reduce the tax rate on the sale of aircraft from 6 percent to 3 percent. In addition, the bill revises criteria for sales and use tax exemptions for aircraft purchased in the state by a nonresident to allow for the aircraft's use or storage within the state if it is licensed, titled, registered, or documented outside the state.

The bill amends s. 212.06, F.S., to provide an exemption for sales, storage and use tax for aircraft used in another state, territory or the United States, or the District of Columbia for less than 6 months before being imported into the state if it is licensed, titled, registered, or documented outside the state.

The bill makes technical wording changes to ss. 212.05 and 212.06, F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes - This legislation provides a reduced sales and use tax rate for sales of aircraft. In addition, the legislation would remove provisions that would require sales, storage and use tax payments for aircraft purchased less than 6 months prior to the date that the aircraft is used or stored within the state when the aircraft is licensed, titled, registered or documented outside of the state.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 212.05, F.S., provides for a sales tax at the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale. This includes aircraft that weigh less than 15,000 pounds. Those aircraft weighing more than 15,000 pounds used by a common carrier are exempt from Florida sales and use tax liabilities.

In addition, s. 212.05, F.S., provides exemptions from the sales and use tax on the purchase of an aircraft if the purchaser removes the aircraft from the state within 10 days after the date of purchase, or when the aircraft is repaired or altered, within 20 days after completion of the repairs or alterations. A purchaser must provide proof to the Department of Revenue (DOR) that the aircraft has been removed from the state within 10 days of purchase to maintain their tax exempt status.

If a purchaser fails to remove the aircraft within 10 days of purchase, fails to remove the aircraft within 20 days of repair, returns to Florida within six months after purchase, or does not submit correct information to the DOR, the purchaser must pay the use tax on the cost of the aircraft and a penalty equal to the tax payable. The 100 percent penalty cannot be waived by DOR. Any purchaser who submits fraudulent information to avoid tax liability is subject to payment of the tax due, a mandatory penalty of 200 percent of the tax, and a fine of up to $5,000 and imprisonment for up to five years.

Section 212.06, F.S., provides that a use tax shall apply and be due on tangible personal property imported or caused to be imported into this state for use, consumption, distribution, or storage to be used or consumed in this state; provided, however, that, it shall be presumed that tangible personal property used in another state, territory of the United States, or in the District of Columbia for 6 months or longer before being imported into this state was not purchased for use in this state.

Section 212.06(5)(a)1., F.S., provides that aircraft exported outside of the continental U.S. is tax exempt when the purchaser provides a validated U.S. customs declaration and the cancelled U.S. registry of the aircraft.

Section 212.08(11), F.S., provides that the sales tax imposed on an aircraft dealer is equal to the amount of sales tax that would be imposed by the state where the aircraft will be domiciled, up to the six percent imposed by Florida. This partial exemption applies only if the purchaser is a resident of another state who will not use the aircraft in Florida, a purchaser who is a resident of another state and uses the aircraft in interstate or foreign commerce, or if the purchaser is a resident of a foreign country.

A number of sales and use tax exemptions related to aviation exist in s. 212.08, F.S.:

- Aircraft repair and maintenance labor charges – For qualified aircraft, aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,000 pounds maximum certified takeoff weight.

- Equipment used in aircraft repair and maintenance – For qualified aircraft, aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,300 pounds maximum certified takeoff weight.
- Aircraft sales and leases – For qualified aircraft and for aircraft of more than 15,000 pounds maximum certified takeoff weight used by a common carrier, as defined by federal regulations.
- Aircraft that is purchased in Florida, but will not be used or stored in this state, qualifies for either a full or partial sales tax exemption, depending on the circumstances.

Effects of Proposed Change

HB 1379 amends s. 212.05, F.S., to reduce the tax rate on the sale of aircraft from 6 percent to 3 percent. In addition, the bill revises criteria for sales and use tax exemptions for aircraft purchased in the state by a nonresident to allow for the aircraft's use or storage within the state if it is licensed, titled, registered, or documented outside the state.

The bill amends s. 212.06, F.S., to provide a 100 percent exemption for sales, storage and use tax for aircraft used in another state, territory or the United States, or the District of Columbia for less than 6 months before being imported into the state if it is licensed, titled, registered, or documented outside the state.

The bill makes technical wording changes to ss. 212.05 and 212.06, F.S.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.05, F.S., reducing the sales tax rate to 3 percent for aircraft sales and revising sales tax exemption criteria associated with the sale of aircraft.

Section 2: Amends s. 212.06, F.S., proving an exemption to sales, storage and use taxes on aircraft imported into the state that has been in use for less than 6 months.

Section 3: Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Not available.

2. Expenditures:

   The Revenue Estimating Conference has not met on this bill. Preliminary data from the Department of Revenue indicates Florida collected $33 million in calendar year 2007 for aircraft sales and use tax.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None

2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This legislation has the potential to positively impact the private sector by reducing the costs of the purchase of aircraft, reducing the costs associated with visiting the state, and reducing costs associated with using or storing an aircraft in the state.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR:

The state of Florida has a very peculiar application of the use tax regulations as they relate to the purchase of aircraft. If an individual purchases an aircraft outside the state of Florida and then brings the aircraft into the state within the first six months of purchase, he or she is penalized by having to pay a 6 percent use tax. This is in addition to sales tax already paid in the state of purchase. The only exception to this scenario would be a routine fuel stop or some similar activity. The aircraft cannot be purchased elsewhere and brought into Florida for at least six months without resulting in undue penalization of the owner of that aircraft.

Part of the reason individuals travel outside of the state of Florida to purchase an aircraft is because the sales tax in our neighboring states averages approximately 3 percent. Passage of House Bill 1379 would not only eliminate the strange application of the use tax regulations and the six-month provision, but it would also reduce the sales tax on aircraft to 3 percent, thereby rendering Florida a worthy competitor with our surrounding states with regard to the sale of aircraft.

It is important to note that several major manufacturers and dealers of aircraft are actually advising their customers to avoid Florida altogether because of the use tax regulations as they are currently written. In addition, because of the current use tax situation, a significant pilot training facility for purchasers of both Piper and Pilatus aircraft is directing its trainees to utilize training facilities in Scottsdale, Arizona, while training facilities exist in both Orlando and Vero Beach. It is apparent that the Florida use tax as it

relates to aircraft is counterproductive. Instead of generating revenues for the state, it diverts revenues to other states. This will continue to occur if the current use tax regulations that pertain to aircraft remain in place.

Passage of House Bill 1379 is essential because it will actually help to generate revenue for the state. Aircraft owners will no longer have to be concerned with whether they are going to be "caught" bringing their aircraft into the state before six months has elapsed. Individuals that purchase aircraft employ people and generate a lot of revenue in our state. In addition, the bill's passage will eliminate the stigma associated with our use tax regulations and the avoidance of Florida by purchasers of aircraft. Such caveats are widespread in national aviation magazines.

I appreciate your support of this legislation.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the tax on sales, use, and other transactions; amending s. 212.05, F.S.; reducing the tax rate for sales and use of aircraft; revising the criteria for the sales and use tax exemption for sales of aircraft removed from the state; deleting a provision authorizing a return of certain aircraft to the state for repairs without violating any law or incurring any tax liability under certain circumstances; amending s. 212.06, F.S.; providing a presumption that certain aircraft are not purchased for use in this state under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.--It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property, except that the tax rate on sales of aircraft shall be 3 percent of the sales price of the aircraft, when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who

reports a sales price less than the actual sales price commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or the purchaser removes a nonqualifying boat ~~or an aircraft~~ from this state within 10 days after the date of purchase or, when the boat ~~or aircraft~~ is repaired or altered, within 20 days after completion of the repairs or alterations;

b. The purchaser, within 30 days from the date of departure, or in the case of an aircraft purchase within 30 days after the date of purchase, shall provide the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft outside the state. If such written proof is unavailable, within 30 days the purchaser shall provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt.

c. The purchaser, within 10 days of removing the boat ~~or aircraft~~ from the state ~~Florida~~, shall furnish the department with proof of removal in the form of receipts for fuel, dockage, or slippage~~, tie-down, or hangaring~~ from outside the state ~~of Florida~~. The information so provided must clearly and specifically identify the boat ~~or aircraft~~;

d. The selling dealer, within 5 days of the date of sale, shall provide to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

e. The seller makes a copy of the affidavit a part of his or her record for as long as required by s. 213.35; and

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser shall apply to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, prior to delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued.

(II) The proceeds from the sale of decals shall ~~will~~ be deposited into the Administrative Trust Fund ~~administrative trust fund~~.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals shall ~~will~~ be considered prima facie to have committed a fraudulent act to evade the tax and shall ~~will~~ be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VI) Any nonresident purchaser of a boat who removes a decal prior to permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date prior to its expiration, or who causes or allows the same to be done by another, shall ~~will~~ be considered prima facie to have committed a fraudulent act to evade the tax and shall ~~will~~ be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to publish the necessary forms and instructions.

(VIII) The department is ~~hereby~~ authorized to adopt emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

If the purchaser fails to remove the qualifying boat from this state within 90 days after purchase or a nonqualifying boat ~~or an aircraft~~ from this state within 10 days after purchase or, when the boat ~~or aircraft~~ is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat ~~or aircraft~~ to return to this state within 6 months from the date of departure, or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat ~~or aircraft~~ and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department. The 90-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason. ~~Notwithstanding other provisions of this paragraph to the contrary, an aircraft purchased in this state under the provisions of this paragraph may be returned to this state for repairs within 6 months after the date of its departure without being in violation of the law and without incurring liability for the payment of tax or penalty on the purchase price of the aircraft if the aircraft is removed from this state within 20 days after the completion of the repairs and if such removal can be demonstrated by invoices for fuel, tie-down, hangar charges issued by out-of-state vendors or suppliers, or similar documentation.~~

Section 2. Subsection (8) of section 212.06, Florida Statutes, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.--

(8)(a) Use tax shall ~~will~~ apply and be due on tangible personal property imported or caused to be imported into this state for use, consumption, distribution, or storage to be used or consumed in this state; provided, however, that, except as provided in paragraph (b), it shall be presumed that tangible personal property used in another state, territory of the United States, or the District of Columbia for 6 months or longer before being imported into this state was not purchased for use in this state. It shall also be presumed that an aircraft used in another state, territory of the United States, or the District of Columbia for less than 6 months before being imported into this state was not purchased for use in this state if the aircraft is licensed, registered, titled, or documented outside the state. The rental or lease of tangible personal property which is used or stored in this state shall be taxable without regard to its prior use or tax paid on purchase outside this state.

(b) The presumption that tangible personal property used in another state, territory of the United States, or the District of Columbia for 6 months or longer before being imported into this state was not purchased for use in this state does not apply to any boat for which a saltwater fishing license fee is required to be paid pursuant to s. 372.57(7), either directly or indirectly, for the purpose of taking, attempting to take, or possessing any saltwater fish for noncommercial

purposes. Use tax shall apply and be due on such a boat as provided in this paragraph, and proof of payment of such tax must be presented prior to the first such licensure of the boat, registration of the boat pursuant to chapter 328, and titling of the boat pursuant to chapter 328. A boat that is first licensed within 1 year after purchase shall be subject to use tax on the full amount of the purchase price; a boat that is first licensed in the second year after purchase shall be subject to use tax on 90 percent of the purchase price; a boat that is first licensed in the third year after purchase shall be subject to use tax on 80 percent of the purchase price; a boat that is first licensed in the fourth year after purchase shall be subject to use tax on 70 percent of the purchase price; a boat that is first licensed in the fifth year after purchase shall be subject to use tax on 60 percent of the purchase price; and a boat that is first licensed in the sixth year after purchase, or later, shall be subject to use tax on 50 percent of the purchase price. If the purchaser fails to provide the purchase invoice on such boat, the fair market value of the boat at the time of importation into this state shall be used to compute the tax.

Section 3. This act shall take effect July 1, 2008.