

Finance and Tax Subcommittee

Thursday, February 14, 2013

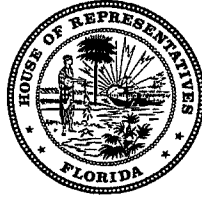
1:30 p.m.

Morris Hall

MEETING PACKET

The Florida House of Representatives

Finance and Tax Subcommittee



Will Weatherford
Speaker

Ritch Workman
Chair

AGENDA

February 14, 2013

1:30 p.m.

Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. Governor's Tax-Related Recommendations and Recommendations Concerning County Reimbursements to the State for Certain Medicaid Costs—presentation by Governor's staff
- IV. Department of Revenue Agency Overview and General Tax Administration Legislative Concepts – presentation by department staff
- V. Sales Taxation of Commercial Real Estate Rentals – staff presentation
- VI. Closing Remarks and Adjournment

GOVERNOR RICK SCOTT

Presentation to the House Finance and Tax Subcommittee



Education

Creating Jobs

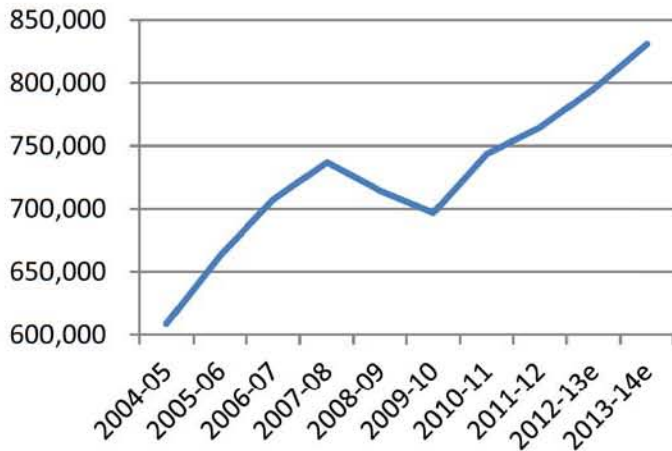
Supporting Florida Families

Christian Weiss

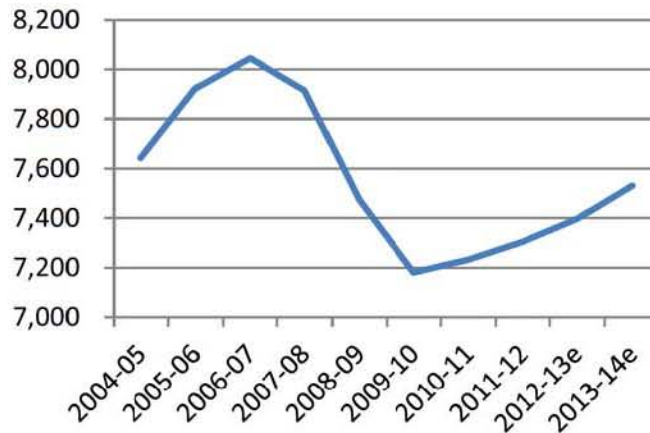
Office of Policy and Budget

Economic Indicators – FY 2005-14

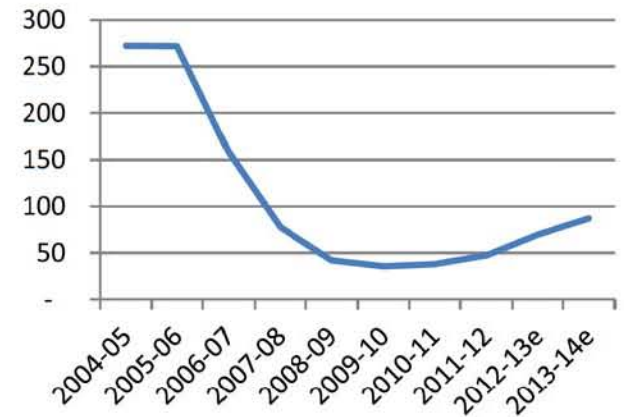
Personal Income



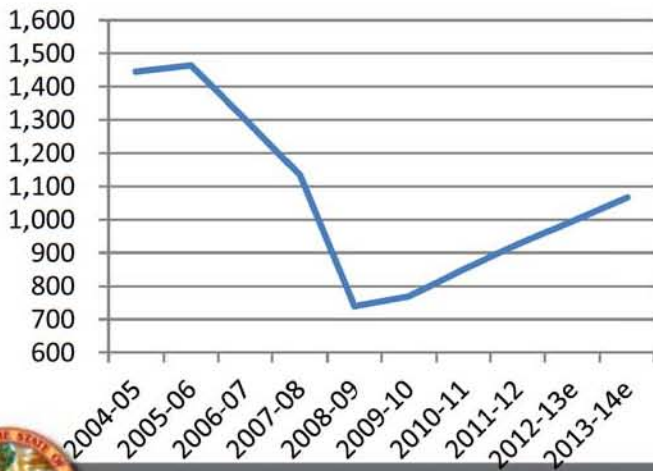
Employment



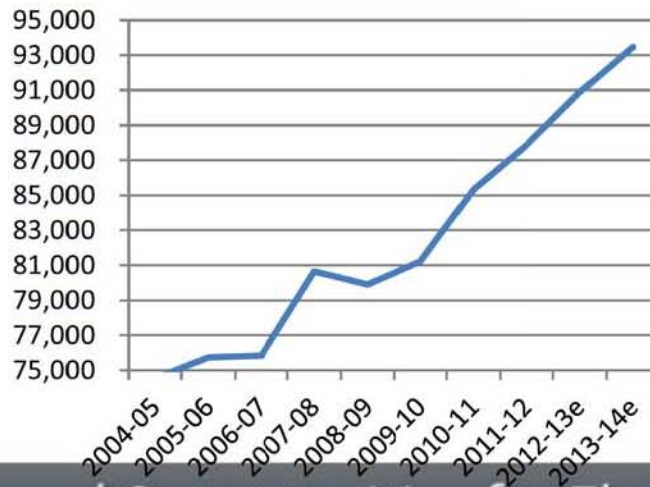
Housing Starts



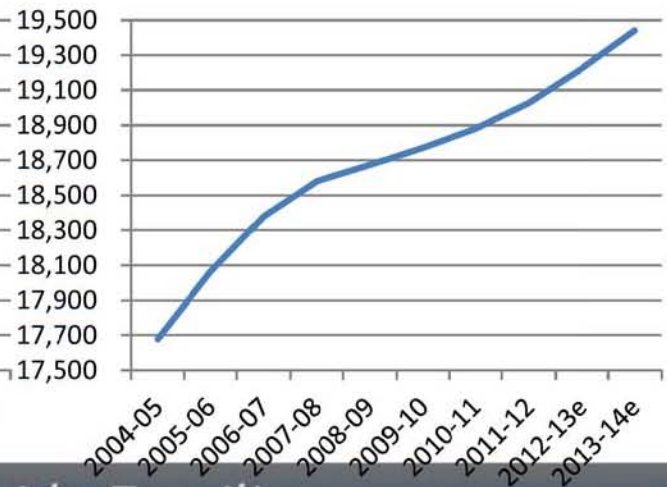
Car Registrations



Visitors



Population



Governor's Investment Priorities

- Education
- Reducing Business Taxes
 - Machinery & equipment sales tax exemption
 - Tax Pyramiding
 - Only 10 states with tax, two with reduced rates
 - Increased corporate income tax exemption



Sales Tax Exemption on Manufacturing Equipment

General Revenue		Local Governments		Manufacturers' Savings	
13-14	Recurring	13-14	Recurring	13-14	Recurring
(\$57.7)	(\$115.3)	(\$13.0)	(\$26.0)	(\$70.7)	(\$141.3)



Increased Corporate Income Tax Exemption

Exemption Change	Taxpayers fully Exempted	Percent	Effective Date	Tax Savings
\$5,000 to \$25,000	13,642	48%	1/1/2012	\$30.9
\$25,000 to \$50,000	4,213	15%	1/1/2013	\$27.5
\$50,000 to \$75,000	1,996	7%	1/1/2014	\$8.4/ \$18.4
Total	19,851	70%		



County Medicaid Proposal

- Change from address-based to formula-based
 - Base amount is \$278.4 m (REC estimate)
 - Each county's share based on the last 5 months of actual data (April 2012 through August 2012)
 - Base amount growth: 75% of state medicaid growth
 - County adjustments: based on each county's growth of state medicaid payments.



Electronic Tax Return Requirement

- Electronic Returns required for:
 - All corporate income tax returns
 - 68% were paper filers in FY 2012
 - All reemployment tax returns
 - 44% were paper filers in FY 2012
- Department of Revenue impacts:
 - Reduction of 27 FTE and \$1 million





**Florida House of Representatives
Appropriations Subcommittee on
Finance and Tax
February 14, 2012**

**Presented by
Marshall Stranburg
Interim Executive Director
Florida Department of Revenue**

Vision

- An agency that is accessible and responsive to citizens, provides fair and efficient tax and child support administration, and achieves the highest level of compliance.

Mission

- To serve citizens with respect, concern, and professionalism
- To make complying with tax and child support laws easy and understandable
- To administer the laws fairly and consistently, and
- To provide excellent service efficiently and at the lowest possible cost

General Tax Administration

Purpose

To collect and distribute state taxes and fees accurately and efficiently

Revenue administers 32 taxes and fees

Functions

- Register taxpayers and process tax payments
- Distribute revenue to state and local governments
- Provide taxpayer assistance through its call center, service centers, and website, including web-based tutorials
- Use collection, audit, dispute resolution, and investigations to bring taxpayers into compliance with the law

Quick Facts

- **8.4 million** returns filed annually
- **\$34 billion** in collected taxes and fees
- **\$5 billion** in receipts processed for other state agencies, as well as Clerk of Court Remittances
- **\$1.7 billion** in discretionary sales surtax collections distributed to 219 local jurisdictions, including counties, cities, and school districts
- **1.1 million** calls responded to through call center agents on toll free help lines

Property Tax Oversight

Purpose

To ensure fair and equitable administration of Florida's local property tax system

Functions

- Review and approve the property tax rolls for each of Florida's 67 counties each year
- Review and approve the annual budgets of property appraisers and tax collectors
- Ensure that Florida's 644 local levying authorities comply with millage levying procedures, and public disclosure laws
- Provide technical and legal guidance to local officials
- Review certain property tax claims for refunds
- Provide training to elected officials and levying authorities
- Provide training and oversight to value adjustment boards

Quick Facts

- In 2011, Florida's local governments and taxing authorities levied more than **\$24.4 billion** in taxes on **9.9 million parcels** of real and tangible personal property, with a total market value of **\$1.85 trillion**.
 - **\$26 million** distributed to 29 fiscally constrained counties.
-

Child Support

Purpose

To help children get the financial support they need when it is not received from one or both parents

Functions

- Locate parents
- Establish paternity
- Establish and enforce child support orders
- Receive and distribute child support payments
- Educate and assist parents and the public
- Work with other entities that carry out critical steps in the child support process, including state agencies, county officials, other states and countries

Quick Facts

- Provide services to more than **1 million children**
 - Collect over **\$1.61 billion annually in child support** payments of which 90% is from enforcement actions
 - Each state is required by the federal government to operate a child support enforcement program as a condition for receiving the Temporary Assistance for Needy Families (TANF) federal block grant
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DEPARTMENT OF REVENUE
2013 LEGISLATIVE CONCEPTS
GENERAL TAX ADMINISTRATION

GENERAL TAX ADMINISTRATION

Corporate Income Tax "Piggyback"	1
Criminal Statute "Glitch" Language	1
Delinquent Taxpayers: Security Requirement for New Registrations	2
Standard Rate for Non-Compliance with Audit Record Requests	2
Floating Interest Rate for Reemployment Tax.....	3
"Zappers"	3
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GENERAL TAX ADMINISTRATION

CORPORATE INCOME TAX

CORPORATE INCOME TAX "PIGGYBACK"

Statutory Reference: Section 220.03, Florida Statutes

Current Situation: Florida uses portions of the Internal Revenue Code as the starting point in calculating Florida corporate income tax. Each year, the Legislature decides what portions of the new code should be adopted by Florida.

Proposed Change: The proposal would adopt the 2013 version of the Internal Revenue Code.

SALES & USE TAX

CRIMINAL STATUTE GLITCH LANGUAGE

Statutory Reference: Sections 212.07, 212.12 and 212.18, Florida Statutes

Current Situation: Recent amendments to the criminal penalties imposed on registration and collection violations do not specifically state the level of offense. Additionally, including the registration violation and the failure to collect violation with the violation for filing of false or fraudulent returns may be confusing.

Proposed Change: The proposal would specify that a person who willfully fails to register after receiving notice commits a third degree felony and will establish graduated offense degrees for failure to collect taxes after notice. This proposal would clarify these penalties by moving the "failure to register after notice" provision to s. 212.18, F.S., and moving the "failure to collect" provision to s. 212.07, F.S., which are the respective provisions of the statutes that deal with these issues. No new penalties are being created by this proposal.

**DELINQUENT TAXPAYERS:
SECURITY REQUIREMENTS FOR NEW REGISTRATIONS**

Statutory Reference: Section 212.14, Florida Statutes

Current Situation: Delinquent sales tax dealers are able to close down their business with tax liabilities, and to reopen under a new name. This allows the business operators who were in actual control of the business and responsible for non-payment to repeatedly fail to remit sales and use tax for successive businesses.

In these instances, Florida Statutes require businesses to provide a cash deposit, bond, or other security as a condition to register the new business. However, the current provision does not clearly apply to all of the individuals that were operating the prior business.

Proposed Change: The proposed statutory revision would clearly authorize the Department to require security for individuals or entities that are responsible for prior delinquent tax accounts when they seek to register new businesses.

REEMPLOYMENT TAX

STANDARD RATE FOR NON-COMPLIANCE WITH AUDIT RECORD REQUESTS

Statutory Reference: Section 443.131, Florida Statutes

Current Situation: Florida law provides a standard reemployment tax (RT) rate. However, many businesses earn a lower, preferential rate if they are in compliance. When not in compliance, the law permits the rate to increase to the standard rate. However, this “non-compliance” treatment does not clearly apply to situations where the taxpayer is not complying with records requests during audits.

Proposed Change: This proposal would permit employer’s rates to increase to the standard rate when the business fails to comply with audit records requests. Once the requested records are provided, the earned rate will be restored.

FLOATING INTEREST RATE FOR REEMPLOYMENT TAX

Statutory Reference: Section 443.141, Florida Statutes

Current Situation: Reemployment assistance tax contributions or reimbursements that are unpaid on the due date bear an interest rate of 1 percent per month (an effective rate of 12 percent). Other taxes that are administered by the Department have an interest rate of prime plus 4 percent, not to exceed an effective rate of one percent per month, adjusted twice per year.

Proposed Change: This proposal would reduce and make interest rate provisions for reemployment tax the same as other taxes administered by the Department.

ADMINISTRATION

"ZAPPERS"

Statutory Reference: Section 213.295, Florida Statutes

Current Situation: Automated sales suppression devices or "zappers" are software programs that falsify the records of electronic cash registers and other point-of-sale systems. This technology allows dealers to fraudulently create a virtual second set of records in order to evade state and federal taxes. In the case of sales tax this results in the theft of taxes collected from citizens.

Proposed Change: This proposal would make it illegal to sell, purchase, install, transfer or possess sales suppression software or devices.

IDENTITY CONFIRMATION

Statutory Reference: Section 322.142, Florida Statutes

Current Situation: Currently, the Department tax staff does not have a way to verify the identity of business owners prior to visiting businesses. This situation makes it difficult for staff to ensure that the business owner is the person with whom staff is working during field visits.

Proposed Change: This proposal would permit the Department's tax collection employees access to driver license photos thus providing a means to verify the identity of business owners.

CLERKS OF THE COURT REMITTANCES – CONFORMING AMENDMENT

Statutory Reference: Section 213.13, Florida Statutes

Current Situation: In 2010, the Legislature changed the remittance date for funds collected by the Clerks of the Court from the 20th to the 10th day of the month immediately after the month in which the funds are collected. The provision in Section 213.13, Florida Statutes, regarding electronic remittance and distribution of funds by the Clerks of the Court was not updated in the legislation.

Proposed Change: This proposal would amend Section 213.13, Florida Statutes, concerning electronic remittance and distribution of funds from the 20th to the 10th, to conform and be consistent with the 2010 legislation.

INCREASE COMPROMISE AUTHORITY

Statutory Reference: Section 213.21, Florida Statutes

Current Situation: The current statute allows the Executive Director to enter into a closing agreement compromising tax if there is a “doubt as to liability” or “doubt as to collectability” of the tax assessed. The statute limits the Department’s compromise authority to reduce the tax by \$250,000 or less.

Proposed Change: This proposal would amend Section 213.21, Florida Statutes, to allow the Executive Director to compromise tax up to \$500,000.

SALES TAXATION OF RENTAL OF REAL PROPERTY

February 14, 2013

Finance and Tax Subcommittee

Florida House of Representatives

STATUTORY AUTHORITY

“It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property... “

Section 212.031(1), Florida Statutes

TAX RATE

- State rate of 6 percent, plus any local option sales taxes, on the total rent paid
- “Rent” = total value of the consideration (e.g. base rent, percentage rents & similar charges) received by the lessor for the right to use or occupy real property

DEFINITIONS

- "Real property" means the surface land, improvements thereto, and fixtures, and is synonymous with "realty" and "real estate"
- "Lease", "let", "rent" or "license" means any agreement allowing a person to use or occupy real property of another

EXEMPTIONS AND EXCLUSIONS

- Section 212.031, F.S., provides numerous exclusions and exemptions from this tax, which include:
 - agricultural property,
 - property used exclusively as a dwelling,
 - property used as an integral part of the performance of qualified production services directly in connection with the production of a qualified motion picture,
 - property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft,
 - public streets or roads which are used for transportation purposes,
 - Etc.

FUNDS COLLECTED

Fiscal Year	09-10	10-11	11-12	12-13*	13-14*	14-15*
State	\$1,298	\$1,253	\$1,269	\$1,264	\$1,293	\$1,356
Local Option	\$124	\$122	\$120	\$113	\$116	\$122

All numbers in millions

*Estimates

OTHER JURISDICTIONS

- Arizona, Hawaii, and New York City tax commercial rent.
- Arizona's state rate was reduced to 0% in 1997, but remains in statute to allow for local option taxes.
- While Hawaii does not have a sales tax, income from of rentals of real property in Hawaii are subject to that state's 4% general excise tax.