



Finance and Tax Subcommittee

Thursday, February 21, 2013

8:00 a.m.

Morris Hall

MEETING PACKET

The Florida House of Representatives

Finance and Tax Subcommittee



Will Weatherford
Speaker

Ritch Workman
Chair

AGENDA

February 21, 2013

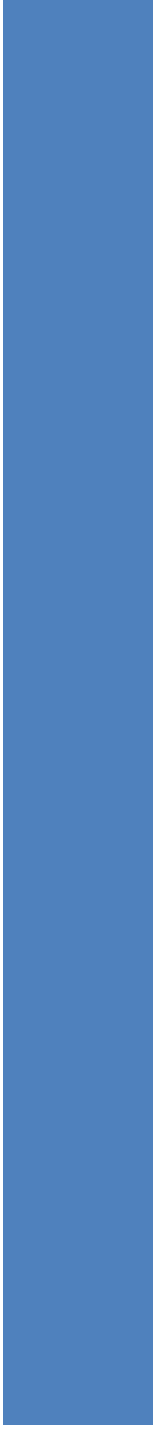
8:00 a.m.

Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. Workshop on Legislative Concepts to Reform Taxation of Communication Services
- IV. Workshop on Legislative Concepts to Reform Local Business Taxes
- V. Workshop on Professional Sports Facilities Tax Incentives
- VI. Closing Remarks and Adjournment

TAXATION OF COMMUNICATIONS SERVICES REFORM LEGISLATIVE CONCEPT OVERVIEW

Finance and Tax Subcommittee, Chair Ritch Workman
Florida House of Representatives
February 21, 2013



Overview

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- **Overarching goal: Tax all communications services at the same rate, regardless of the type of service, the method of delivery, or the location of the user.**
- **Local communications services taxes are repealed while increasing the state rate and broadening the tax base**
- **Intended to be revenue neutral (both state and local)**
- **Replaces local tax revenue for each government via a revenue sharing formula**

Tax Rate Changes

3

- All rates are for demonstration purposes and should be expected to change after REC evaluation

Tax	Current Rate	New Rate
State CST	6.65%	10.11%
Local CST	Variable, up to 7.12%	0%
Direct to Home Satellite CST	10.8%	10.11%
Prepaid Calling Arrangements (current definition)	6.62%*	10.11%
Gross Receipts for residential land line services	2.37%	2.05%
Gross Receipts for other communications services	2.52%	2.05%

*includes average local option rates

Rate Summary

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Service Type	Current Combined Rate	New Combined Rate
General	14.21%*	12.16%
Res. Land Line	7.41%*	12.16%
Direct to Home Satellite	13.17%	12.16%
Prepaid Calling Arrangements (current definition)	6.62%*	12.16%

*includes average local option rates

Local Tax Replacement

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- Repealed local taxes are replaced by a portion of the higher state tax.
- New distribution formula created
- Each county and municipality would receive revenues based on:
 - Actual collections in FY 2012-13
 - Each jurisdiction's population
 - Changes in statewide collections

Residential Land Lines

6

- Residential land line service:
 - Currently subject to the gross receipts tax and local CST
 - Exempt from the state CST
 - Average combined rate of 7.41%
- Exemption from state CST would be eliminated
- Subjected to the same statewide combined rate as other communications services

Prepaid Calling Arrangements

7

- Current law narrowly defines “prepaid calling arrangements”, requiring them to consist *exclusively* of telephone calls
- Concept language modernizes this definition to include products which provide text messages and allow data
- The tax rate on prepaid is increased to the same statewide combined rate as on other communications services

Permit fees

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- Current law: local governments may elect to require permit fees for use of rights-of-way or levy an add-on to their local CST rate
- Local governments which elected to levy a higher rate would lose the authority to require such fees
- Local governments that required permit fees as of January 1, 2013, are grandfathered in and may continue collecting such fees

Bond protection

9

- Funds that are distributed to local governments through the newly created distribution formula may be used for any public purpose
- Those distributions can replace local communication services tax collections as bond security

Collection allowance

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- Current law allows dealers who satisfy certain requirements to receive a 0.75% collection allowance
- With the creation of a single statewide rate, the collection allowance would be reduced to 0.5% on January 1, 2014
- Further reduced to 0.25% on January 1, 2017

Remedial and Retroactive/Effective

Date

11

- The single statewide rate would go into effect January 1, 2014
- The changes to the definition of “prepaid calling arrangement” would be retroactive and remedial
- Certain portions go into effect July 1, 2013, to allow the Department of Revenue to make the necessary calculations

Questions?

Communications Services Tax Reform Legislative Concepts Overview

This language embodies the concept of reforming the communications services tax (“CST”) to consolidate the taxation of communications services in Florida into a single unified statewide rate, regardless of the delivery medium or location of the services user. This consolidation is intended to be revenue neutral from both the state perspective and from any individual unit of local government’s perspective. To achieve that overarching reform objective, the concept language replaces local government communications taxation authority with a state revenue sharing arrangement, modernizes the definition of “prepaid calling arrangements” and applies the single unified rate to sales of such arrangements, removes an exemption on residential land line service, and reduces the collection allowance granted to dealers of communication services. The concept language also eliminates the authority of local governments to levy permit fees on dealers of communications services but will grandfather in any local governments currently levying such fees to maintain revenue neutrality.

Tax Rate Changes

In furtherance of the goal of creating a single statewide rate while maintaining revenue neutrality for local governments, the concept language increases the state CST rate and distributes the portion of revenue collected from that increase to local governments. It is important to note that the new tax rates in the concept language are for demonstration purposes, and should be expected to change when subjected to the official revenue estimating process.

The language reforms the tax structure as follows:

Revenue Source	Current Rate	New Rate
State CST	6.65%	10.11%
Local CST	Variable, up to 7.12%	0%
Direct to Home Satellite CST	10.8%	10.11%
Prepaid Calling Arrangements (current definition)	6.62%*	10.11%
Gross Receipts for residential land line services	2.37%	2.05%
Gross Receipts for other communications services	2.52%	2.05%

*includes average local option rate

Restating those changes in terms of the combined tax rate paid by the customer on different types of services:

Service Type	Current Combined Rate	New Combined Rate
General	14.21%*	12.16%
Res. Land Line	7.41%*	12.16%
Direct to Home Satellite	13.17%	12.16%
Prepaid Calling Arrangements (current definition)	6.62%*	12.16%

*includes average statewide local option rates

Repeal and Replacement of Local Option Communications Services Taxes

Current law (s. 202.19, F.S.) allows counties and municipalities to authorize by ordinance the levy of a local communications services tax. The rate of that tax will vary depending on the type of local government entity. For municipalities and charter counties the tax may be levied at a rate of up to 5.1 percent. Non-charter counties may levy the tax at a rate of up to 1.6 percent. These maximum rates may be increased by the add-on rates of 0.12 percent for municipalities and charter counties or 0.24 percent for noncharter counties that have elected not to require and collect the permit fees authorized pursuant to s. 337.401, F.S., or the conversion or emergency rates authorized by s. 202.20, F.S.

In addition to the local communications services taxes, any local option sales tax that a county or school board has levied pursuant to s. 212.055, F.S., is converted to an add on to the local CST rate with the conversion rate determined by the chart in s. 202.20(3), F.S.

Repeal

The concept language repeals the sections of Florida Statute that provide the authority to levy and the procedures to administer the local communications services tax. The concept language also removes sales of communications services from the local option sales tax base to maintain a unified state rate. Certain administrative provisions throughout are given a delayed repeal for administrative reasons.

Local CST Revenue Replacement Distribution Formula

To provide revenue neutrality for each individual unit of local government relative to current law, the concept language establishes a formula to distribute a portion of the new higher state CST to local governments to replace the revenue they lose due to the local CST repeal (section 9). The formula is designed so that each county and municipality would receive revenues based on their actual collections in FY 2012-13 with adjustments going forward for changes in each jurisdiction's population and changes in overall collections.

- The Department of Revenue will calculate each unit of local government's initial "adjusted per capita share". That share is defined as the local CST revenues that unit received in FY 2012-13 as a percentage of the total local CST revenue in this state collected during FY 2012-13 divided by the percentage of the state's population in that unit.
- After January 1, 2014, when the single rate goes into effect, the Department is directed to distribute the replacement portion of the state CST funds to the local governments by multiplying that initial per capita share by the current percentage of population for each local government to determine the percentage of total revenue they should receive for that year.
- That percentage is then multiplied by actual total collections of the replacement portion and the appropriate amount is distributed to each unit of local government.

As an example, imagine that there was a city that had 10 percent of Florida's population and received 15 percent of the total local CST revenues in Florida for FY 2012-2013. That city would have an initial per capita share of 1.5 (15 percent divided by 10 percent). If that city's population remained at 10 percent, in a future year it would receive 15 percent of the replacement portion of the state CST collections for that year (the 10 percent of the state's population multiplied by the 1.5 initial adjusted per capita share). If that city increased their population (e.g. through an annexation or natural growth) and grew to have 12 percent of the state's population in a future year, then that city would receive 18 percent of the replacement portion of the state CST collections for that year (12 percent population multiplied by the 1.5 initial adjusted per capita share). In this example, the city's share of population grew by 20 percent, as did the share it received of the total replacement revenues collected.

Funds received from this distribution by municipalities to replace their local communications services tax may be used for any public purpose.

Residential Land Lines

Current law exempts residential land line communications services from the state CST (s. 202.125(1), F.S.). They are, however, subject to both the local CST and the gross receipts tax. The concept language removes this exemption so that residential land lines would pay the same unified statewide rate as other communications services. Such services will also remain subject to the gross receipts tax.

Prepaid Calling Arrangements

Under current law, "prepaid calling arrangements" that fit the narrow definition provided by s. 212.05(1)(e), F.S., are subject to the sales tax of 6 percent (plus any applicable local option sales and use taxes). They are therefore excluded from the (generally much higher) communications services tax by s. 202.11(1)(c), F.S. The current statutory definition of "prepaid calling arrangement" is very narrowly drafted to only include, "retail sale by advance payment of

communications services that *consist exclusively of telephone calls...* that are sold in predetermined units or dollars whose number declines with use in a known amount.”

Modernize Definition and Unify Rate

The concept language redefines “prepaid calling arrangement” to mean the sale of communications services that satisfy all the below requirements:

- Includes the ability to originate or receive telephone calls or transmit text messages
- Sold in predetermined units that expire or decrease according to a predetermined basis
- Cannot be used unless paid for in advance
- Cannot be used if the predetermined units have expired or been exhausted
- Are not subject to any requirement to purchase additional units in the future
- Cannot be offered with an option to allow the service to be continued automatically after expiration or exhaustion of the units

The sales tax rate on prepaid calling arrangements is increased to 10.11 percent to be taxed at the same single statewide rate as other communications services (section 28).

Prepaid-Specific Collection Method

To allow for ease of administration, the concept language provides that sales tax on prepaid calling arrangements does not need to be separately stated (granting retailers flexibility in displaying the tax to end consumers) and is not collected at the point of sale as with other sales of tangible personal property. Instead, the language provides that the sales tax and the gross receipts tax on sales of prepaid calling arrangements are consolidated into a single 12.16 percent tax and calculated based on gross sales of prepaid calling arrangements, not individual transactions.

Sales Tax on Prepaid Distributed Like CST

The concept language distributes the revenue from the sales tax imposed on prepaid calling arrangements in a manner identical to the distribution of the communications services tax on postpaid wireless communications (section 30).

Remedial and Retroactive

The changes to the definition of “prepaid calling arrangement” are intended to be remedial in nature and apply retroactively but will not provide the basis for any refunds or credits for taxes already paid nor will they provide a basis for assessment of any tax not paid.

Permit Fees

Current law allows local taxing authorities to elect to either apply an add-on rate to their local communications services tax or levy permit fees (subject to various limitations) for the use of public rights of way by communications services providers. These fees are administered pursuant to s. 337.401, F.S. The concept language amends s. 337.401, F.S., to eliminate the future authority to levy such permit fees for any jurisdiction that was not levying such fees as of January 1, 2013. Jurisdictions that were collecting such fees are grandfathered and may continue to collect them subject to the same limitations as current law (section 33).

Bond Protection

The concept language allows taxing authorities to use the revenue they receive from the distribution formula for the replacement portion of the new state CST to replace local communications services tax revenue as bond security (section 34).

Collection Allowance

Current law allows dealers of communications services to receive a credit equal to either 0.75 percent or 0.25 percent of their collections, depending on the method they use to assign customers to local taxing authorities. The concept language will reduce the maximum collection allowance to 0.50 percent effective January 1, 2014, and further reduce it to 0.25 percent after January 1, 2017, as customers will no longer need to be assigned to local taxing authorities under the unified state rate (section 21).

Effective Date

The single-statewide rate and local communications services tax repeal portions of the concept language go into effect after January 1, 2014. Certain portions of the replacement CST portion distribution formula in section 9 will go into effect on July 1, 2013, to allow the Department of Revenue time to make the necessary calculations.

1 A bill to be entitled
2 An act relating to the communications services tax;
3 amending s. 202.11, F.S.; revising the definition of
4 "prepaid calling arrangement"; deleting the definition
5 of the term "enhanced zip code"; amending s. 202.12,
6 F.S.; revising the communications services tax rate on
7 sales of communications services; conforming a cross-
8 reference; repealing s. 202.12001, F.S., relating to
9 the combined rate for tax collected; amending s.
10 202.125, F.S.; deleting an exemption from the
11 communications services tax and gross receipts tax for
12 the separately stated sales price of communications
13 services sold to residential households and the
14 exception to such exemption for transient public
15 lodging establishments, mobile communications
16 services, video services, or direct-to-home satellite
17 services; conforming cross-references; amending ss.
18 202.13, and 202.151, F.S.; conforming cross-
19 references; amending s. 202.155, F.S.; providing for
20 the future repeal of such section relating to special
21 rules for establishing a customer's place of primary
22 use of mobile communications services; conforming a
23 cross-reference; amending s. 202.16, F.S.; conforming
24 a cross-reference; amending s. 202.18, F.S.; revising
25 the allocation and disposition formula applicable to
26 proceeds of the communications services tax and
27 certain proceeds of the gross receipts tax; conforming
28 provisions to changes made by the act; creating s.

29 202.181, F.S.; providing a distribution formula for
 30 certain communications services tax proceeds;
 31 repealing s. 202.19, F.S., relating to the
 32 authorization to impose the local communications
 33 services tax; amending ss. 202.193 and 202.195, F.S.;
 34 conforming cross-references; repealing ss. 202.20,
 35 202.21, and 202.22, F.S., relating to the local
 36 communications services tax conversion rates, the
 37 effective dates and procedures for informing dealers
 38 of communications services of tax levies and rate
 39 changes, and the determination of the local tax situs
 40 for imposition of the tax, respectively; amending s.
 41 202.23, F.S.; conforming cross-references; amending s.
 42 202.231, F.S.; providing for the future repeal of such
 43 section relating to providing information to local
 44 taxing jurisdictions concerning the local
 45 communications services tax; amending s. 202.24, F.S.;
 46 conforming cross-references; defining the term
 47 "replaced revenue sources"; amending s. 202.26, F.S.;
 48 revising the Department of Revenue's authority to
 49 adopt rules relating to a dealer's exercise of due
 50 diligence with respect to certain records and methods
 51 necessary for the collection of the local
 52 communications services tax; conforming cross-
 53 references; amending s. 202.27, F.S.; conforming
 54 cross-references; amending s. 202.28, F.S.; conforming
 55 cross-references; providing for a future repeal of a
 56 paragraph relating to local communications services

57 tax; amending s. 202.29, F.S.; conforming cross-
 58 references; amending s. 202.35, F.S.; conforming
 59 cross-references; repealing ss. 202.37, 202.38,
 60 202.381, and 203.001, F.S., relating to special rules
 61 for administration of the local communications
 62 services tax, special rules for bad debts and
 63 adjustments under specified previously existing taxes,
 64 the transition from previously existing taxes, and the
 65 combined rate for communications services and the
 66 gross receipts tax on utility services, respectively;
 67 amending s. 203.01, F.S.; conforming cross-references;
 68 revising the tax rate levied on communications
 69 services; amending s. 212.05, F.S.; eliminating the
 70 sales and use tax on prepaid calling arrangements;
 71 amending s. 212.054, F.S.; removing a reference;
 72 revising the tax base of the discretionary surtax;
 73 amending s. 212.20, F.S.; revising the distribution of
 74 sales tax revenue on certain transactions; amending
 75 ss. 218.67, 288.1045, 288.106, and 213.053, F.S.;
 76 conforming cross-references; amending s. 337.401,
 77 F.S.; revising the authority for municipalities,
 78 charter counties, and noncharter counties to collect
 79 permit fees from providers of communications services
 80 that use or occupy municipal or county roads or
 81 rights-of-way and deleting the procedures,
 82 requirements, and limitations with respect thereto;
 83 conforming cross-references; amending s. 365.172,
 84 F.S.; conforming cross-references; providing

85 application relating to the replacement of taxes or
 86 fees repealed by this act with respect to the
 87 impairment of bonded indebtedness secured by such
 88 taxes or fees; providing application relating to the
 89 imposition of taxes on billing statements for
 90 communications services; authorizing the Department of
 91 Revenue to adopt emergency rules; providing for
 92 retroactive application; providing an effective date.

93

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

95

96 Section 1. Subsections (19) through (23) of section
 97 202.11, Florida Statutes, are renumbered as subsections (18)
 98 through (22), respectively, and present subsections (9) and (18)
 99 of that section are amended to read:

100 202.11 Definitions.—As used in this chapter, the term:

101 (9) "Prepaid calling arrangement" has the same meaning as
 102 in s. 212.05(1)(e) means the separately stated retail sale by
 103 ~~advance payment of communications services that consist~~
 104 ~~exclusively of telephone calls originated by using an access~~
 105 ~~number, authorization code, or other means that may be manually,~~
 106 ~~electronically, or otherwise entered and that are sold in~~
 107 ~~predetermined units or dollars of which the number declines with~~
 108 ~~use in a known amount.~~

109 ~~(18) "Enhanced zip code" means a United States postal zip~~
 110 ~~code of 9 or more digits.~~

111 Section 2. Subsection (1) of section 202.12, Florida
 112 Statutes, is amended to read:

113 202.12 Sales of communications services.—The Legislature
 114 finds that every person who engages in the business of selling
 115 communications services at retail in this state is exercising a
 116 taxable privilege. It is the intent of the Legislature that the
 117 tax imposed by chapter 203 be administered as provided in this
 118 chapter.

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

122 (a) Except as otherwise provided in this subsection, at a
 123 rate of 10.11 ~~6.65~~ percent applied to the sales price of the
 124 communications service which:

- 125 1. Originates and terminates in this state, or
- 126 2. Originates or terminates in this state and is charged
 127 to a service address in this state,

128
 129 when sold at retail, computed on each taxable sale for the
 130 purpose of remitting the tax due. The gross receipts tax imposed
 131 by chapter 203 shall be collected on the same taxable
 132 transactions and remitted with the tax imposed by this
 133 paragraph. ~~If no tax is imposed by this paragraph by reason of~~
 134 ~~s. 202.125(1), the tax imposed by chapter 203 shall nevertheless~~
 135 ~~be collected and remitted in the manner and at the time~~
 136 ~~prescribed for tax collections and remittances under this~~
 137 ~~chapter.~~

138 (b) At the rate of 10.811 percent on the retail sales
 139 price of any direct-to-home satellite service received in this
 140 state. The proceeds of the tax imposed under this paragraph

141 shall be accounted for and distributed in accordance with s.
 142 202.18(2). The gross receipts tax imposed by chapter 203 shall
 143 be collected on the same taxable transactions and remitted with
 144 the tax imposed by this paragraph.

145 (c) At the rate set forth in paragraph (a) on the sales
 146 price of private communications services provided within this
 147 state, which shall be determined in accordance with the
 148 following provisions:

149 1. Any charge with respect to a channel termination point
 150 located within this state;

151 2. Any charge for the use of a channel between two channel
 152 termination points located in this state; and

153 3. Where channel termination points are located both
 154 within and outside of this state:

155 a. If any segment between two such channel termination
 156 points is separately billed, 50 percent of such charge; and

157 b. If any segment of the circuit is not separately billed,
 158 an amount equal to the total charge for such circuit multiplied
 159 by a fraction, the numerator of which is the number of channel
 160 termination points within this state and the denominator of
 161 which is the total number of channel termination points of the
 162 circuit.

163
 164 The gross receipts tax imposed by chapter 203 shall be collected
 165 on the same taxable transactions and remitted with the tax
 166 imposed by this paragraph.

167 (d) At the rate set forth in paragraph (a) applied to the
 168 sales price of all mobile communications services deemed to be

169 provided to a customer by a home service provider pursuant to s.
 170 117(a) of the Mobile Telecommunications Sourcing Act, Pub. L.
 171 No. 106-252, if such customer's service address is located
 172 within this state.

173 Section 3. Section 202.125, Florida Statutes, is amended
 174 to read:

175 202.125 Sales of communications services; specified
 176 exemptions.—

177 ~~(1) The separately stated sales price of communications~~
 178 ~~services sold to residential households is exempt from the tax~~
 179 ~~imposed by s. 202.12 and s. 203.01(1)(b)3. This exemption does~~
 180 ~~not apply to any residence that constitutes all or part of a~~
 181 ~~transient public lodging establishment as defined in chapter~~
 182 ~~509, any mobile communications service, any video service, or~~
 183 ~~any direct-to-home satellite service.~~

184 (1)~~(2)~~ The sale of communications services provided to the
 185 Federal Government, any agency or instrumentality of the Federal
 186 Government, or any entity that is exempt from state taxes under
 187 federal law is exempt from the taxes imposed or administered
 188 pursuant to s. 202.12 ~~ss. 202.12 and 202.19~~.

189 (2)~~(3)~~ The sale of communications services to the state or
 190 any county, municipality, or political subdivision of the state
 191 when payment is made directly to the dealer by the governmental
 192 entity is exempt from the taxes imposed or administered pursuant
 193 to s. 202.12 ~~ss. 202.12 and 202.19~~. This exemption does not
 194 inure to any transaction otherwise taxable under this chapter
 195 when payment is made by a government employee by any means,
 196 including, but not limited to, cash, check, or credit card even

197 | when that employee is subsequently reimbursed by the
 198 | governmental entity.

199 | (3)~~(4)~~ The sale of communications services to a home for
 200 | the aged, religious institution or educational institution that
 201 | is exempt from federal income tax under s. 501(c)(3) of the
 202 | Internal Revenue Code, or by a religious institution that is
 203 | exempt from federal income tax under s. 501(c)(3) of the
 204 | Internal Revenue Code having an established physical place for
 205 | worship at which nonprofit religious services and activities are
 206 | regularly conducted and carried on, is exempt from the taxes
 207 | imposed or administered pursuant to s. 202.12 ~~ss. 202.12 and~~
 208 | ~~202.19~~. As used in this subsection, the term:

209 | (a) "Religious institution" means an organization owning
 210 | and operating an established physical place for worship at which
 211 | nonprofit religious services and activities are regularly
 212 | conducted. The term also includes:

213 | 1. Any nonprofit corporation the sole purpose of which is
 214 | to provide free transportation services to religious institution
 215 | members, their families, and other religious institution
 216 | attendees.

217 | 2. Any nonprofit state, district, or other governing or
 218 | administrative office the function of which is to assist or
 219 | regulate the customary activities of religious institutions.

220 | 3. Any nonprofit corporation that owns and operates a
 221 | television station in this state of which at least 90 percent of
 222 | the programming consists of programs of a religious nature and
 223 | the financial support for which, exclusive of receipts for
 224 | broadcasting from other nonprofit organizations, is

225 | predominantly from contributions from the public.

226 | 4. Any nonprofit corporation the primary activity of which
 227 | is making and distributing audio recordings of religious
 228 | scriptures and teachings to blind or visually impaired persons
 229 | at no charge.

230 | 5. Any nonprofit corporation the sole or primary purpose
 231 | of which is to provide, upon invitation, nonprofit religious
 232 | services, evangelistic services, religious education,
 233 | administrative assistance, or missionary assistance for a
 234 | religious institution, or established physical place of worship
 235 | at which nonprofit religious services and activities are
 236 | regularly conducted.

237 | (b) "Educational institution" includes:

238 | 1. Any state tax-supported, parochial, religious
 239 | institution, and nonprofit private school, college, or
 240 | university that conducts regular classes and courses of study
 241 | required for accreditation by or membership in the Southern
 242 | Association of Colleges and Schools, the Florida Council of
 243 | Independent Schools, or the Florida Association of Christian
 244 | Colleges and Schools, Inc.

245 | 2. Any nonprofit private school that conducts regular
 246 | classes and courses of study which are accepted for continuing
 247 | education credit by a board of the Division of Medical Quality
 248 | Assurance of the Department of Health.

249 | 3. Any nonprofit library.

250 | 4. Any nonprofit art gallery.

251 | 5. Any nonprofit performing arts center that provides
 252 | educational programs to school children, which programs involve

253 | performances or other educational activities at the performing
 254 | arts center and serve a minimum of 50,000 school children a
 255 | year.

256 | 6. Any nonprofit museum that is open to the public.

257 | (c) "Home for the aged" includes any nonprofit
 258 | corporation:

259 | 1. In which at least 75 percent of the occupants are 62
 260 | years of age or older or totally and permanently disabled; which
 261 | qualifies for an ad valorem property tax exemption under s.
 262 | 196.196, s. 196.197, or s. 196.1975; and which is exempt from
 263 | the sales tax imposed under chapter 212.

264 | 2. Licensed as a nursing home under chapter 400 or an
 265 | assisted living facility under chapter 429 and which is exempt
 266 | from the sales tax imposed under chapter 212.

267 | Section 4. Section 202.12001, Florida Statutes, is
 268 | repealed.

269 | Section 5. Subsection (3) of section 202.13, Florida
 270 | Statutes, is amended to read:

271 | 202.13 Intent.—

272 | (3) The tax on dealers of communications services
 273 | authorized under this chapter, ~~including the tax imposed by~~
 274 | ~~local governments under ss. 202.19 and 202.20,~~ shall supersede
 275 | the authority of local governments to levy franchise fees as set
 276 | out in 47 U.S.C. s. 542 without regard to the fact that this is
 277 | a tax of general applicability on all providers of
 278 | communications services.

279 | Section 6. Section 202.151, Florida Statutes, is amended
 280 | to read:

281 202.151 Use tax imposed on certain purchasers of
 282 communications services.—Any person who purchases communications
 283 services that are otherwise taxable under s. 202.12 ~~ss. 202.12~~
 284 ~~and 202.19~~ at retail from a seller in another state, territory,
 285 the District of Columbia, or any foreign country shall report
 286 and remit to the department the taxes imposed by or administered
 287 under this chapter on the communications services purchased and
 288 used, the same as if such communications services had been
 289 purchased at retail from a dealer in this state. This section
 290 does not apply if the out-of-state seller registers as a dealer
 291 in this state and collects from the purchaser the taxes imposed
 292 by or administered under this chapter. The department may adopt
 293 rules governing the reporting and remitting of communications
 294 services taxes by purchasers who purchase from out-of-state
 295 sellers who do not collect the taxes imposed by or administered
 296 under this chapter.

297 Section 7. Paragraph (b) of subsection (3) of section
 298 202.155, Florida Statutes, is amended to read:

299 202.155 Special rules for mobile communications services.—

300 (3)

301 (b) The department shall provide notice to the home
 302 service provider of its intent to redetermine the assignment of
 303 a taxing jurisdiction by a home service provider under former s.
 304 202.22. If a final order is entered ruling that the jurisdiction
 305 assigned by the home service provider is incorrect, the
 306 department shall notify the home service provider of the proper
 307 jurisdictional assignment. The home service provider shall begin
 308 using the correct jurisdictional assignment within 120 days.

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Section 8. Subsection (3) of section 202.16, Florida Statutes, is amended to read:

202.16 Payment.—The taxes imposed or administered under this chapter and chapter 203 shall be collected from all dealers of taxable communications services on the sale at retail in this state of communications services taxable under this chapter and chapter 203. The full amount of the taxes on a credit sale, installment sale, or sale made on any kind of deferred payment plan is due at the moment of the transaction in the same manner as a cash sale.

(3) (a) A sale of communications services that are used as a component part of or integrated into a communications service or prepaid calling arrangement for resale, including, but not limited to, carrier-access charges, interconnection charges paid by providers of mobile communication services or other communication services, charges paid by a video service provider for the purchase of video programming or the transmission of video or other programming by another dealer of communications services, charges for the sale of unbundled network elements, and any other intercompany charges for the use of facilities for providing communications services for resale, must be made in compliance with the rules of the department. A person who makes a sale for resale which is not in compliance with these rules is liable for any tax, penalty, and interest due for failing to comply, to be calculated pursuant to s. 202.28(2)(a).

~~(b) The rounding algorithm must be applied to the local communications services tax imposed pursuant to this chapter~~

337 ~~separately from its application to the communications services~~
 338 ~~taxes imposed pursuant to s. 202.12 and the gross receipts taxes~~
 339 ~~imposed pursuant to s. 203.01.~~

340 ~~(e)~~ A dealer may apply the rounding algorithm to the taxes
 341 imposed pursuant to ss. 202.12 and 203.01 in one of the
 342 following ways:

343 1. Apply the rounding algorithm to the combined taxes
 344 imposed pursuant to ss. 202.12 and 203.01.

345 2. Apply the rounding algorithm to the communications
 346 services taxes imposed pursuant to s. 202.12(1), and apply the
 347 rounding algorithm separately to the combined gross receipts
 348 taxes imposed pursuant to s. 203.01(1)(b)2. and 3.

349 ~~3. Apply the rounding algorithm to the combined taxes~~
 350 ~~imposed pursuant to ss. 202.12(1)(a) and 203.01(1)(b)3., as~~
 351 ~~allowed by ss. 202.12001 and 203.001, and apply the rounding~~
 352 ~~algorithm separately to the gross receipts tax imposed pursuant~~
 353 ~~to s. 203.01(1)(b)2.~~

354 (c) ~~(d)~~ Under paragraph ~~(b)~~ or paragraph ~~(e)~~, a dealer may
 355 apply the rounding algorithm to the aggregate tax amount that is
 356 computed on all taxable items on an invoice or to each tax
 357 amount that is computed on one or more, but fewer than all,
 358 taxable items on an invoice. The aggregate tax amount for all
 359 items on the invoice must equal at least the result that would
 360 have been obtained if the rounding algorithm had been applied to
 361 the aggregate tax amount computed on all taxable items on the
 362 invoice. A dealer may satisfy this requirement by setting a
 363 minimum tax amount of not less than 1 cent with respect to each
 364 item, or group of items, to which the rounding algorithm is

365 applied.

366 ~~(d)(e)~~—The department may not require a dealer to collect
367 the tax based on a bracket system.

368 Section 9. Section 202.18, Florida Statutes, is amended to
369 read:

370 202.18 Allocation and disposition of tax proceeds.—The
371 proceeds of the communications services taxes remitted under
372 this chapter shall be treated as follows:

373 (1) The proceeds of the taxes remitted under ss.
374 202.12(1)(a), 202.12(1)(c), and 202.12(1)(d) shall be divided as
375 follows:

376 (a) The portion of such proceeds which constitutes gross
377 receipts taxes, imposed at the rate prescribed in chapter 203,
378 shall be deposited as provided by law and in accordance with s.
379 9, Art. XII of the State Constitution.

380 (b) Fifty-eight percent of The remaining portion shall be
381 distributed according to s. 212.20(6). Forty-two percent of the
382 remaining portion shall be transferred to the Local
383 Communications Services Tax Clearing Trust Fund and held there
384 to be distributed pursuant to s. 202.181

385 (2) The proceeds of the taxes remitted under s.
386 202.12(1)(b) shall be divided as follows:

387 (a) The portion of such proceeds which constitutes gross
388 receipts taxes, imposed at the rate prescribed in chapter 203,
389 shall be deposited as provided by law and in accordance with s.
390 9, Art. XII of the State Constitution.

391 (b) Sixty ~~Sixty-three~~ percent of the remainder shall be
392 allocated to the state and distributed pursuant to s. 212.20(6),

393 except that the proceeds allocated pursuant to s. 212.20(6)(d)2.
 394 shall be prorated to the participating counties in the same
 395 proportion as that month's collection of the taxes and fees
 396 imposed pursuant to chapter 212 and paragraph (1)(b).

397 (c) 1. During each calendar year, the remaining portion of
 398 such proceeds shall be transferred to the Local Government Half-
 399 cent Sales Tax Clearing Trust Fund. Seventy percent of such
 400 proceeds shall be allocated in the same proportion as the
 401 allocation of total receipts of the half-cent sales tax under s.
 402 218.61 and the emergency distribution under s. 218.65 in the
 403 prior state fiscal year. Thirty percent of such proceeds shall
 404 be distributed pursuant to s. 218.67.

405 2. The proportion of the proceeds allocated based on the
 406 emergency distribution under s. 218.65 shall be distributed
 407 pursuant to s. 218.65.

408 3. In each calendar year, the proportion of the proceeds
 409 allocated based on the half-cent sales tax under s. 218.61 shall
 410 be allocated to each county in the same proportion as the
 411 county's percentage of total sales tax allocation for the prior
 412 state fiscal year and distributed pursuant to s. 218.62.

413 4. The department shall distribute the appropriate amount
 414 to each municipality and county each month at the same time that
 415 ~~local communications services taxes are distributed as~~
 416 distributions made pursuant to s. 202.181 subsection (3).

417 ~~(3)(a) Notwithstanding any law to the contrary, the~~
 418 ~~proceeds of each local communications services tax levied by a~~
 419 ~~municipality or county pursuant to s. 202.19(1) or s. 202.20(1),~~
 420 ~~less the department's costs of administration, shall be~~

421 ~~transferred to the Local Communications Services Tax Clearing~~
 422 ~~Trust Fund and held there to be to such municipality or county.~~
 423 ~~However, the proceeds of any communications services tax imposed~~
 424 ~~pursuant to s. 202.19(5) shall be deposited and disbursed in~~
 425 ~~accordance with ss. 212.054 and 212.055.~~

426 ~~For purposes of this section, the proceeds of any tax~~
 427 ~~levied by a municipality, county, or school board under s.~~
 428 ~~202.19(1) or s. 202.20(1) are all funds collected and received~~
 429 ~~by the department pursuant to a specific levy authorized by such~~
 430 ~~sections, including any interest and penalties attributable to~~
 431 ~~the tax levy.~~

432 ~~(b) The amount deducted for the costs of administration~~
 433 ~~may not exceed 1 percent of the total revenue generated for all~~
 434 ~~municipalities, counties, and school boards levying a tax~~
 435 ~~pursuant to s. 202.19. The amount deducted for the costs of~~
 436 ~~administration shall be used only for those costs that are~~
 437 ~~attributable to the taxes imposed pursuant to s. 202.19. The~~
 438 ~~total cost of administration shall be prorated among those~~
 439 ~~jurisdictions levying the tax on the basis of the amount~~
 440 ~~collected for a particular jurisdiction to the total amount~~
 441 ~~collected for all such jurisdictions.~~

442 ~~(c)1. Except as otherwise provided in this paragraph,~~
 443 ~~proceeds of the taxes levied pursuant to s. 202.19, less amounts~~
 444 ~~deducted for costs of administration in accordance with~~
 445 ~~paragraph (b), shall be distributed monthly to the appropriate~~
 446 ~~jurisdictions. The proceeds of taxes imposed pursuant to s.~~
 447 ~~202.19(5) shall be distributed in the same manner as~~
 448 ~~discretionary surtaxes are distributed, in accordance with ss.~~

449 ~~212.054 and 212.055.~~

450 ~~2. The department shall make any adjustments to the~~
451 ~~distributions pursuant to this section which are necessary to~~
452 ~~reflect the proper amounts due to individual jurisdictions or~~
453 ~~trust funds. In the event that the department adjusts amounts~~
454 ~~due to reflect a correction in the situsing of a customer, such~~
455 ~~adjustment shall be limited to the amount of tax actually~~
456 ~~collected from such customer by the dealer of communication~~
457 ~~services.~~

458 ~~3.a. Adjustments in distributions which are necessary to~~
459 ~~correct misallocations between jurisdictions shall be governed~~
460 ~~by this subparagraph. If the department determines that~~
461 ~~misallocations between jurisdictions occurred, it shall provide~~
462 ~~written notice of such determination to all affected~~
463 ~~jurisdictions. The notice shall include the amount of the~~
464 ~~misallocations, the basis upon which the determination was made,~~
465 ~~data supporting the determination, and the identity of each~~
466 ~~affected jurisdiction. The notice shall also inform all affected~~
467 ~~jurisdictions of their authority to enter into a written~~
468 ~~agreement establishing a method of adjustment as described in~~
469 ~~sub-subparagraph c.~~

470 ~~b. An adjustment affecting a distribution to a~~
471 ~~jurisdiction which is less than 90 percent of the average~~
472 ~~monthly distribution to that jurisdiction for the 6 months~~
473 ~~immediately preceding the department's determination, as~~
474 ~~reported by all communications services dealers, shall be made~~
475 ~~in the month immediately following the department's~~
476 ~~determination that misallocations occurred.~~

477 ~~e. If an adjustment affecting a distribution to a~~
 478 ~~jurisdiction equals or exceeds 90 percent of the average monthly~~
 479 ~~distribution to that jurisdiction for the 6 months immediately~~
 480 ~~preceding the department's determination, as reported by all~~
 481 ~~communications services dealers, the affected jurisdictions may~~
 482 ~~enter into a written agreement establishing a method of~~
 483 ~~adjustment. If the agreement establishing a method of adjustment~~
 484 ~~provides for payments of local communications services tax~~
 485 ~~monthly distributions, the amount of any such payment agreed to~~
 486 ~~may not exceed the local communications services tax monthly~~
 487 ~~distributions available to the jurisdiction that was allocated~~
 488 ~~amounts in excess of those to which it was entitled. If affected~~
 489 ~~jurisdictions execute a written agreement specifying a method of~~
 490 ~~adjustment, a copy of the written agreement shall be provided to~~
 491 ~~the department no later than the first day of the month~~
 492 ~~following 90 days after the date the department transmits notice~~
 493 ~~of the misallocation. If the department does not receive a copy~~
 494 ~~of the written agreement within the specified time period, an~~
 495 ~~adjustment affecting a distribution to a jurisdiction made~~
 496 ~~pursuant to this sub-subparagraph shall be prorated over a time~~
 497 ~~period that equals the time period over which the misallocations~~
 498 ~~occurred.~~

499 Section 10. Effective July 1, 2013, section 202.181,
 500 Florida Statutes, is created to read:

501 202.181 Disposition of certain communications services tax
 502 proceeds

503 (1) On or before December 1, 2013, the department shall
 504 calculate for each municipality or county an initial adjusted

505 per capita share. The initial adjusted per capita share for a
 506 municipality or county shall be a ratio, the numerator of which
 507 is the percentage of total statewide revenues authorized by
 508 former s. 202.19 that the municipality or county received during
 509 its 2012-2013 fiscal year, the denominator of which is that
 510 municipality or county's percentage of the total state
 511 population using the most recent official estimates of
 512 population certified under s. 186.901 and used for purposes of
 513 revenue sharing distribution formulas.

514 (2) On or before January 1, 2014, and on or before each
 515 subsequent July 1, the department shall determine each
 516 municipality or county's share of total collections by
 517 multiplying municipality or county's percentage of the total
 518 population in the state by that municipality or county's initial
 519 adjusted per capita share as determined by subsection (1). In
 520 determining a municipality or county's percentage of the total
 521 population in the state the department shall use the most recent
 522 official estimates of population certified under s. 186.901 and
 523 used for purposes of revenue sharing distribution formulas.

524 (3) Beginning February 1, 2014, each month there shall be
 525 distribution to each municipality or county from the revenue
 526 deposited in the Local Communications Services Tax Clearing
 527 Trust Fund. The amount distributed each month to each
 528 municipality or county shall be an amount equal to the share of
 529 total collections calculated under subsection (2) for that
 530 municipality or county multiplied by the sum of total statewide
 531 collections in that month of the portion of collections of the
 532 communications services tax levied by s. 202.12(1)(a) and that

533 portion of collections that month of the sales and use tax
 534 levied on prepaid calling arrangements pursuant to s.
 535 212.05(1)(e) that are to be distributed in accordance with this
 536 section.

537 (4) Each municipality or county's share of total
 538 collections calculated on or before January 1, 2014 under
 539 subsection (2) shall be applied to monthly collections under
 540 subsection (3) prior to October 1, 2014. Thereafter, each
 541 municipality or county's share of monthly collections calculated
 542 as of July 1 each year under subsection (2) shall be applied to
 543 total collections under subsection (3) beginning in the
 544 municipality or county's fiscal year that begins in the October
 545 immediately subsequent to the calculation.

546 (5) The revenues distributed under this section may be used
 547 by a municipality or county for any public purpose, including,
 548 but not limited to, pledging such revenues for the repayment of
 549 current or future bonded indebtedness.

550 Section 11. Section 202.19, Florida Statutes, is repealed.

551 Section 12. Subsection (1) of section 202.193, Florida
 552 Statutes, is amended to read:

553 202.193 Local Communications Services Tax Clearing Trust
 554 Fund.—

555 (1) The Local Communications Services Tax Clearing Trust
 556 Fund is created within the Department of Revenue. Certain
 557 Proceeds from the ~~local~~ communications services tax levied
 558 pursuant to s. 202.12(1)(a) that ~~s. 202.19~~ shall be deposited in
 559 the trust fund for distribution to municipalities and counties
 560 as provided in s. 202.18~~1~~. Moneys deposited in the trust fund

561 are exempt from the service charges imposed under s. 215.20.

562 Section 13. Subsection (1) of section 202.195, Florida
563 Statutes, is amended to read:

564 202.195 Proprietary confidential business information;
565 public records exemption.—

566 (1) Proprietary confidential business information obtained
567 from a telecommunications company or franchised cable company
568 for the purposes of imposing fees for occupying the public
569 rights-of-way, assessing the local communications services tax
570 pursuant to ~~s. 202.12~~ ~~s. 202.19~~, or regulating the public
571 rights-of-way, held by a local governmental entity, is
572 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
573 of the State Constitution. Such proprietary confidential
574 business information held by a local governmental entity may be
575 used only for the purposes of imposing such fees, assessing such
576 tax, or regulating such rights-of-way, and may not be used for
577 any other purposes, including, but not limited to, commercial or
578 competitive purposes.

579 Section 14. Section 202.20, Florida Statutes, is repealed.

580 Section 15. Section 202.21, Florida Statutes, is repealed.

581 Section 16. Section 202.22, Florida Statutes, is repealed.

582 Section 17. Subsections (2) and (5) of section 202.23,
583 Florida Statutes, are amended to read:

584 202.23 Procedure on purchaser's request for refund or
585 credit of communications services taxes.—

586 (2) This section provides the sole and exclusive procedure
587 and remedy for a purchaser who claims that a dealer has
588 collected communications services taxes imposed or administered

589 | under this chapter which were not due. An action that arises as
590 | a result of the claimed collection of taxes that were not due
591 | may not be commenced or maintained by or on behalf of a
592 | purchaser against a dealer, a municipality, a county, or the
593 | state unless the purchaser pleads and proves that the purchaser
594 | has exhausted the procedures in subsection (1) and that the
595 | defendant has failed to comply with subsection (1). However, no
596 | determination by a dealer under paragraph (1)(c) shall be deemed
597 | a failure to comply with subsection (1) if the dealer has
598 | complied with the obligations imposed on the dealer by
599 | paragraphs (1)(d), (e), and (f). In any such action, it is a
600 | complete defense that the dealer, a municipality, a county, or
601 | the state has refunded the taxes claimed or credited the
602 | purchaser's account. In such an action against a dealer, it is
603 | also a complete defense that, in collecting the tax, the dealer
604 | used one or more of the methods set forth in former s. 202.22
605 | for assigning the purchaser to a local taxing jurisdiction. Such
606 | action is barred unless it is commenced within 180 days
607 | following the date of the dealer's written response under
608 | paragraph (1)(f), or within 1 year following submission of the
609 | purchaser's request to the dealer if the dealer failed to issue
610 | a timely written response. The relief available to a purchaser
611 | as a result of collection of communications services taxes that
612 | were not due is limited to a refund of or credit for such taxes.

613 | (5) A dealer who has collected and remitted amounts that
614 | were not due, as determined by the department under paragraph
615 | (1)(e), who has issued a refund or credit to the purchaser for
616 | such amounts, and who takes a credit or receives a refund from

617 the department for such amounts as provided in subsection (3) is
 618 not subject to assessment for any of the tax that was refunded
 619 or credited or for any interest or penalty with respect to the
 620 tax. In addition, a dealer who modifies his or her tax
 621 compliance practices to conform to a department determination
 622 under paragraph (1)(e) is not subject to assessment as a result
 623 of such modification, absent a subsequent change in law or
 624 update to a database pursuant to former s. 202.22.

625 Section 18. Section 202.231, Florida Statutes, is
 626 repealed.

627
 628 .
 629 Section 19. Paragraph (c) of subsection (2) of section
 630 202.24, Florida Statutes, is amended, and subsection (4) is
 631 added to that section, to read:

632 202.24 Limitations on local taxes and fees imposed on
 633 dealers of communications services.—

634 (2)

635 (c) This subsection does not apply to:

636 ~~1. Local communications services taxes levied under this~~
 637 ~~chapter.~~

638 1.2. Ad valorem taxes levied pursuant to chapter 200.

639 2.3. Business taxes levied under chapter 205.

640 3.4. "911" service charges levied under chapter 365.

641 4.5. Amounts charged for the rental or other use of
 642 property owned by a public body which is not in the public
 643 rights-of-way to a dealer of communications services for any
 644 purpose, including, but not limited to, the placement or

645 attachment of equipment used in the provision of communications
646 services.

647 ~~5.6.~~ Permit fees of general applicability which are not
648 related to placing or maintaining facilities in or on public
649 roads or rights-of-way.

650 ~~6.7.~~ Permit fees related to placing or maintaining
651 facilities in or on public roads or rights-of-way pursuant to s.
652 337.401.

653 ~~7.8.~~ Any in-kind requirements, institutional networks, or
654 contributions for, or in support of, the use or construction of
655 public, educational, or governmental access facilities allowed
656 under federal law and imposed on providers of video service
657 pursuant to any existing ordinance or an existing franchise
658 agreement granted by each municipality or county, under which
659 ordinance or franchise agreement service is provided before July
660 1, 2007, or as permitted under chapter 610. This subparagraph
661 does not prohibit providers of video service from recovering the
662 expenses as allowed under federal law.

663 ~~8.9.~~ Special assessments and impact fees.

664 ~~9.10.~~ Pole attachment fees that are charged by a local
665 government for attachments to utility poles owned by the local
666 government.

667 ~~10.11.~~ Utility service fees or other similar user fees for
668 utility services.

669 ~~11.12.~~ Any other generally applicable tax, fee, charge, or
670 imposition authorized by general law on July 1, 2000, which is
671 not specifically prohibited by this subsection or included as a
672 replaced revenue source ~~in s. 202.20.~~

673 (4) As used in this section, the term "replaced revenue
 674 source" means the following taxes, charges, fees, or other
 675 impositions to the extent that the respective local taxing
 676 jurisdictions were authorized to impose them before July 1,
 677 2000.

678 (a) With respect to municipalities and charter counties
 679 and the taxes authorized by former s. 202.19(1):

680 1. The public service tax on telecommunications authorized
 681 by former s. 166.231(9).

682 2. Franchise fees on cable service providers as authorized
 683 by 47 U.S.C. s. 542.

684 3. The public service tax on prepaid calling arrangements.

685 4. Franchise fees on dealers of communications services
 686 which use the public roads or rights-of-way, up to the limit set
 687 forth in s. 337.401. For purposes of calculating rates under
 688 this section, it is the legislative intent that charter counties
 689 be treated as having had the same authority as municipalities to
 690 impose franchise fees on recurring local telecommunication
 691 service revenues prior to July 1, 2000. However, the Legislature
 692 recognizes that the authority of charter counties to impose such
 693 fees is in dispute, and the treatment provided in this section
 694 is not an expression of legislative intent that charter counties
 695 actually do or do not possess such authority.

696 5. Actual permit fees relating to placing or maintaining
 697 facilities in or on public roads or rights-of-way, collected
 698 from providers of long-distance, cable, and mobile
 699 communications services for the fiscal year ending September 30,
 700 1999; however, if a municipality or county is authorized to

701 charge permit fees pursuant to s. 337.401(3)(c), such fees shall
702 not be included as a replaced revenue source.

703 (b) With respect to all other counties and the taxes
704 authorized in former s. 202.19(1), franchise fees on cable
705 service providers as authorized by 47 U.S.C. s. 542.

706 Section 20. Paragraphs (f) and (g) of subsection (3) of
707 section 202.26, Florida Statutes, are amended to read:

708 202.26 Department powers.—

709 (3) To administer the tax imposed by this chapter, the
710 department may adopt rules relating to:

711 ~~(f) The records and methods necessary for A dealer to~~
712 ~~demonstrate the exercise of due diligence as defined by s.~~
713 ~~202.22(4)(b).~~

714 ~~(g) The creation of the database described in s. 202.22(2)~~
715 ~~and the certification and recertification of the databases as~~
716 ~~described in s. 202.22(3).~~

717 Section 21. Subsection (6) of section 202.27, Florida
718 Statutes, is amended to read:

719 202.27 Return filing; rules for self-accrual.—

720 (6) In addition to the contact person identified on the
721 return, each dealer of communications services obligated to
722 collect and remit local communications services tax imposed
723 under former s. 202.19 may at any time, and shall within 10 days
724 after a request, designate a managerial representative to whom
725 the department shall direct any inquiry regarding the
726 completeness or accuracy of the dealer's return when the
727 response provided by the contact person identified on the return
728 has been inadequate. When the representative designated under

729 | this subsection is contacted by the department, the dealer shall
 730 | respond to the department within 30 days.

731 | Section 22. Subsection (1) and paragraphs (d) and (e) of
 732 | subsection (2) of section 202.28, Florida Statutes, are amended
 733 | to read:

734 | 202.28 Credit for collecting tax; penalties.—

735 | (1) Except as otherwise provided in former s. 202.22, for
 736 | the purpose of compensating persons providing communications
 737 | services for the keeping of prescribed records, the filing of
 738 | timely tax returns, and the proper accounting and remitting of
 739 | taxes, persons collecting taxes imposed under this chapter and
 740 | under s. 203.01(1)(a)2. shall be allowed to deduct 0.25 ~~0.75~~
 741 | percent of the amount of the tax due and accounted for and
 742 | remitted to the department.

743 | (a) The collection allowance may not be granted, nor may
 744 | any deduction be permitted, if the required tax return or tax is
 745 | delinquent at the time of payment.

746 | (b) The department may deny the collection allowance if a
 747 | taxpayer files an incomplete return.

748 | 1. For the purposes of this chapter, a return is
 749 | incomplete if it is lacking such uniformity, completeness, and
 750 | arrangement that the physical handling, verification, review of
 751 | the return, or determination of other taxes and fees reported on
 752 | the return can not be readily accomplished.

753 | 2. The department shall adopt rules requiring the
 754 | information that it considers necessary to ensure that the taxes
 755 | levied or administered under this chapter are properly
 756 | collected, reviewed, compiled, reported, and enforced,

757 including, but not limited to, rules requiring the reporting of
758 the amount of gross sales; the amount of taxable sales; the
759 amount of tax collected or due; the amount of lawful refunds,
760 deductions, or credits claimed; the amount claimed as the
761 dealer's collection allowance; the amount of penalty and
762 interest; and the amount due with the return.

763 ~~(c) The collection allowance and other credits or~~
764 ~~deductions provided in this chapter shall be applied to the~~
765 ~~taxes reported for the jurisdiction previously credited with the~~
766 ~~tax paid.~~Subject to the provisions of this section, dealers may
767 deduct an additional 0.25 percent of tax due. This paragraph is
768 repealed January 1, 2017.

769 (2)

770 ~~(d) If a dealer fails to separately report and identify~~
771 ~~local communications services taxes on the appropriate return~~
772 ~~schedule, the dealer shall be subject to a penalty of \$5,000 per~~
773 ~~return. If the department is unable to obtain appropriate return~~
774 ~~schedules, any penalty imposed by this paragraph shall be~~
775 ~~allocated in the same manner as provided in s. 202.18(2).~~

776 ~~(e) If a dealer of communications services does not use~~
777 ~~one or more of the methods specified in s. 202.22(1) for~~
778 ~~assigning service addresses to local jurisdictions and assigns~~
779 ~~one or more service addresses to an incorrect local jurisdiction~~
780 ~~in collecting and remitting local communications services taxes~~
781 ~~imposed under s. 202.19, the dealer shall be subject to a~~
782 ~~specific penalty of 10 percent of any tax collected but reported~~
783 ~~to the incorrect jurisdiction as a result of incorrect~~
784 ~~assignment, except that the penalty imposed under this paragraph~~

785 ~~with respect to a single return may not exceed \$10,000.~~

786 Section 23. Paragraph (a) of subsection (4) of section
787 202.29, Florida Statutes, is amended to read:

788 202.29 Bad debts.—

789 (4)(a) A dealer may report the credit for bad debt allowed
790 under this section by netting such credit against the tax due to
791 the state pursuant to s. 202.12 ~~or to a local jurisdiction~~
792 ~~pursuant to s. 202.19~~, but such netting may not reduce the
793 amount due to the state or to any local jurisdiction below zero.

794 Section 24. Subsection (4) of section 202.35, Florida
795 Statutes, is amended to read:

796 202.35 Powers of department in dealing with delinquents;
797 tax to be separately stated.—

798 (4) Each dealer who makes retail sales of communications
799 services shall add the amount of the taxes imposed or
800 administered under this chapter to the price of the services
801 sold by him or her and shall state the taxes separately from the
802 price of the services on all invoices. The combined amount of
803 taxes due under ss. 202.12 and 203.01 shall be stated and
804 identified as the Florida communications services tax, ~~and the~~
805 ~~combined amount of taxes due under s. 202.19 shall be stated and~~
806 ~~identified as the local communications services tax.~~

807 Section 25. Section 202.37, Florida Statutes, is repealed.

808 Section 26. Section 202.38, Florida Statutes, is repealed.

809 Section 27. Section 202.381, Florida Statutes, is
810 repealed.

811 Section 28. Section 203.001, Florida Statutes, is
812 repealed.

813 Section 29. Paragraphs (a) and (b) of subsection (1) of
 814 section 203.01, Florida Statutes, are amended to read:

815 203.01 Tax on gross receipts for utility and
 816 communications services.—

817 (1)(a)1. A tax is imposed on gross receipts from utility
 818 services that are delivered to a retail consumer in this state.
 819 The tax shall be levied as provided in paragraphs (b)-(j).

820 2. A tax is levied on communications services as defined
 821 in s. 202.11(1). The tax shall be applied to the same services
 822 and transactions as are subject to taxation under chapter 202 ~~and~~
 823 ~~to communications services that are subject to the exemption~~
 824 ~~provided in s. 202.125(1)~~. The tax shall be applied to the sales
 825 price of communications services when sold at retail, as the
 826 terms are defined in s. 202.11, shall be due and payable at the
 827 same time as the taxes imposed pursuant to chapter 202, and
 828 shall be administered and collected pursuant to the provisions
 829 of chapter 202.

830 3. A tax is levied on prepaid calling arrangements that
 831 are subject to the sales and use tax under s. 212.05(1)(e). The
 832 tax on prepaid calling arrangements shall be administered and
 833 collected pursuant to the provisions of s. 212.05(1)(e).

834 (b)1. The rate applied to utility services shall be 2.5
 835 percent.

836 2. The rate applied to communications services and prepaid
 837 calling arrangements shall be 2.05 ~~2.37~~ percent.

838 ~~3. There shall be an additional rate of 0.15 percent~~
 839 ~~applied to communication services subject to the tax levied~~
 840 ~~pursuant to s. 202.12(1)(a), (c), and (d). The exemption~~

841 ~~provided in s. 202.125(1) applies to the tax levied pursuant to~~
 842 ~~this subparagraph.~~

843 Section 30. Paragraph (e) of subsection (1) of section
 844 212.05, Florida Statutes, is amended to read:

845 212.05 Sales, storage, use tax.—It is hereby declared to
 846 be the legislative intent that every person is exercising a
 847 taxable privilege who engages in the business of selling
 848 tangible personal property at retail in this state, including
 849 the business of making mail order sales, or who rents or
 850 furnishes any of the things or services taxable under this
 851 chapter, or who stores for use or consumption in this state any
 852 item or article of tangible personal property as defined herein
 853 and who leases or rents such property within the state.

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

857 (e)1. ~~At the rate of 6 percent on charges for:~~

858 a. At the rate of 10.11 percent for Prepaid calling
 859 arrangements. A dealer shall collect the combined tax of 12.16
 860 percent on sales of prepaid calling arrangements, comprised of
 861 10.11 percent and 2.05 percent required by this paragraph and s.
 862 203.01(1), respectively. The dealer shall calculate the tax due
 863 under this sub-subparagraph by dividing the gross receipts from
 864 sales of prepaid calling arrangements for the applicable
 865 reporting period by 1.1216 to compute gross taxable sales, and
 866 then subtracting gross taxable sales from gross receipts to
 867 arrive at the amount of tax due. The tax on sales of prepaid
 868 calling arrangements must be separately reported to the

869 department. ~~The tax on charges for prepaid calling arrangements~~
870 ~~shall be collected at the time of sale and remitted by the~~
871 ~~selling dealer.~~

872 (I) "Prepaid calling arrangement" means the ~~separately~~
873 ~~stated retail sale by advance payment of communications services~~
874 ~~that,; consist exclusively of telephone calls originated by~~
875 ~~using an access number, authorization code, or other means that~~
876 ~~may be manually, electronically, or otherwise entered and that~~
877 ~~are sold in predetermined units or dollars whose number declines~~
878 ~~with use in a known amount.~~

879 (A) include the ability to originate or receive telephone
880 calls or transmit text messages,

881 (B) are sold in predetermined units or dollars that expire
882 on a predetermined schedule or that decrease on a predetermined
883 basis,

884 (C) cannot be used unless advance payment for the service
885 has been made,

886 (D) cannot be used if the predetermined units or dollars
887 have expired on the predetermined schedule or basis required in
888 (B),

889 (E) are not subject to any requirement that the service
890 continue to be purchased subsequent to expiration of the units
891 or dollars on the predetermined schedule or basis required in
892 (B), and

893 (F) are not offered with an option that the service may
894 automatically continue, without advance payment, subsequent to
895 expiration of the units or dollars on the predetermined schedule
896 or basis required in (B).

897 (II) If the sale or recharge of the prepaid calling
 898 arrangement does not take place at the dealer's place of
 899 business, it shall be deemed to take place at the customer's
 900 shipping address or, if no item is shipped, at the customer's
 901 address or the location associated with the customer's mobile
 902 telephone number.

903 (III) The sale or recharge of a prepaid calling
 904 arrangement shall be treated as a sale of tangible personal
 905 property for purposes of this chapter, whether or not a tangible
 906 item evidencing such arrangement is furnished to the purchaser,
 907 and such sale within this state subjects the selling dealer to
 908 the jurisdiction of this state for purposes of this subsection.

909 (IV) Sales of prepaid calling arrangements are exempt from
 910 the requirements in this chapter to separately state taxes. A
 911 dealer who elects to separately state the tax due on any bill or
 912 invoice shall include that amount in their gross sales for the
 913 purposes of calculating tax due under sub-subparagraph a.

914 b. At the rate of 6 percent for The installation of
 915 telecommunication and telegraphic equipment.

916 c. At the rate of 7 percent for Electrical power or
 917 energy, ~~except that the tax rate for charges for electrical~~
 918 ~~power or energy is 7 percent.~~

919 2. The provisions of s. 212.17(3), regarding credit for
 920 tax paid on charges subsequently found to be worthless, shall be
 921 equally applicable to any tax paid under the provisions of this
 922 section on charges for prepaid calling arrangements,
 923 telecommunication or telegraph services, or electric power
 924 subsequently found to be uncollectible. The word "charges" in

925 | this paragraph does not include any excise or similar tax levied
 926 | by the Federal Government, any political subdivision of the
 927 | state, or any municipality upon the purchase, sale, or recharge
 928 | of prepaid calling arrangements or upon the purchase or sale of
 929 | telecommunication, television system program, or telegraph
 930 | service or electric power, which tax is collected by the seller
 931 | from the purchaser.

932 | Section 31. Section (2) of section 212.054, Florida
 933 | Statutes, is amended to read:

934 | 212.054 Discretionary sales surtax; limitations,
 935 | administration, and collection.—

936 | (2) (a) The tax imposed by the governing body of any county
 937 | authorized to so levy pursuant to s. 212.055 shall be a
 938 | discretionary surtax on all transactions occurring in the county
 939 | which transactions are subject to the state tax imposed on
 940 | sales, use, services, rentals, admissions, and other
 941 | transactions by this chapter except for prepaid calling
 942 | arrangements as defined by s. 212.05(1)(e) and ~~communications~~
 943 | ~~services as defined for purposes of chapter 202~~. The surtax, if
 944 | levied, shall be computed as the applicable rate or rates
 945 | authorized pursuant to s. 212.055 times the amount of taxable
 946 | sales and taxable purchases representing such transactions. If
 947 | the surtax is levied on the sale of an item of tangible personal
 948 | property or on the sale of a service, the surtax shall be
 949 | computed by multiplying the rate imposed by the county within
 950 | which the sale occurs by the amount of the taxable sale. The
 951 | sale of an item of tangible personal property or the sale of a
 952 | service is not subject to the surtax if the property, the

953 service, or the tangible personal property representing the
 954 service is delivered within a county that does not impose a
 955 discretionary sales surtax.

956 (b) However:

957 1. The sales amount above \$5,000 on any item of tangible
 958 personal property shall not be subject to the surtax. ~~However,~~
 959 ~~charges for prepaid calling arrangements, as defined in s.~~
 960 ~~212.05(1)(e)1.a., shall be subject to the surtax.~~ For purposes
 961 of administering the \$5,000 limitation on an item of tangible
 962 personal property, if two or more taxable items of tangible
 963 personal property are sold to the same purchaser at the same
 964 time and, under generally accepted business practice or industry
 965 standards or usage, are normally sold in bulk or are items that,
 966 when assembled, comprise a working unit or part of a working
 967 unit, such items must be considered a single item for purposes
 968 of the \$5,000 limitation when supported by a charge ticket,
 969 sales slip, invoice, or other tangible evidence of a single sale
 970 or rental.

971 2. In the case of utility services billed on or after the
 972 effective date of any such surtax, the entire amount of the
 973 charge for utility services shall be subject to the surtax. In
 974 the case of utility services billed after the last day the
 975 surtax is in effect, the entire amount of the charge on said
 976 items shall not be subject to the surtax. "Utility service," as
 977 used in this section, does not include any communications
 978 services as defined in chapter 202.

979 3. In the case of written contracts which are signed prior
 980 to the effective date of any such surtax for the construction of

981 improvements to real property or for remodeling of existing
 982 structures, the surtax shall be paid by the contractor
 983 responsible for the performance of the contract. However, the
 984 contractor may apply for one refund of any such surtax paid on
 985 materials necessary for the completion of the contract. Any
 986 application for refund shall be made no later than 15 months
 987 following initial imposition of the surtax in that county. The
 988 application for refund shall be in the manner prescribed by the
 989 department by rule. A complete application shall include proof
 990 of the written contract and of payment of the surtax. The
 991 application shall contain a sworn statement, signed by the
 992 applicant or its representative, attesting to the validity of
 993 the application. The department shall, within 30 days after
 994 approval of a complete application, certify to the county
 995 information necessary for issuance of a refund to the applicant.
 996 Counties are hereby authorized to issue refunds for this purpose
 997 and shall set aside from the proceeds of the surtax a sum
 998 sufficient to pay any refund lawfully due. Any person who
 999 fraudulently obtains or attempts to obtain a refund pursuant to
 1000 this subparagraph, in addition to being liable for repayment of
 1001 any refund fraudulently obtained plus a mandatory penalty of 100
 1002 percent of the refund, is guilty of a felony of the third
 1003 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1004 775.084.

1005 4. In the case of any vessel, railroad, or motor vehicle
 1006 common carrier entitled to partial exemption from tax imposed
 1007 under this chapter pursuant to s. 212.08(4), (8), or (9), the
 1008 basis for imposition of surtax shall be the same as provided in

1009 s. 212.08 and the ratio shall be applied each month to total
 1010 purchases in this state of property qualified for proration
 1011 which is delivered or sold in the taxing county to establish the
 1012 portion used and consumed in intracounty movement and subject to
 1013 surtax.

1014 Section 32. Paragraph (d) of subsection (6) of section
 1015 212.20, Florida Statutes, is created to read and current
 1016 paragraph (d) of that section is renumbered as (e):

1017 212.20 Funds collected, disposition; additional powers of
 1018 department; operational expense; refund of taxes adjudicated
 1019 unconstitutionally collected.—

1020 (6) Distribution of all proceeds under this chapter and s.
 1021 202.18(1)(b) and (2)(b) shall be as follows:

1022 (d) Of proceeds from taxes on prepaid calling arrangements
 1023 collected pursuant to s. 212.05(1)(e), seventeen percent of
 1024 funds collected shall be distributed as provided by chapter 203
 1025 and in accordance with s. 9, Art. XII of the State Constitution
 1026 and thirty-five percent shall be transferred into the Local
 1027 Communications Services Tax Clearing Trust Fund to be
 1028 distributed in accordance with 202.181.

1029 Section 33. Paragraph (d) of subsection (3) of section
 1030 288.106, Florida Statutes, is amended to read:

1031 288.106 Tax refund program for qualified target industry
 1032 businesses.—

1033 (3) TAX REFUND; ELIGIBLE AMOUNTS.—

1034 (d) After entering into a tax refund agreement under
 1035 subsection (5), a qualified target industry business may:

1036 1. Receive refunds from the account for the following

1037 taxes due and paid by that business beginning with the first
 1038 taxable year of the business that begins after entering into the
 1039 agreement:

- 1040 a. Corporate income taxes under chapter 220.
- 1041 b. Insurance premium tax under s. 624.509.

1042 2. Receive refunds from the account for the following
 1043 taxes due and paid by that business after entering into the
 1044 agreement:

- 1045 a. Taxes on sales, use, and other transactions under
- 1046 chapter 212.
- 1047 b. Intangible personal property taxes under chapter 199.
- 1048 c. Excise taxes on documents under chapter 201.
- 1049 d. Ad valorem taxes paid, as defined in s. 220.03(1).
- 1050 e. State communications services taxes administered under
- 1051 chapter 202. This provision does not apply to the gross receipts
- 1052 tax imposed under chapter 203 and administered under chapter 202
- 1053 ~~or the local communications services tax authorized under s.~~
- 1054 ~~202.19.~~

1055 Section 34. Paragraph (t) of subsection (8) of section
 1056 213.053, Florida Statutes, is amended to read:

1057 213.053 Confidentiality and information sharing.—

1058 (8) Notwithstanding any other provision of this section,
 1059 the department may provide:

1060 (t) Information relative to chapter 202 to each local
 1061 government that imposes a tax pursuant to former s. 202.19 in
 1062 the conduct of its official duties as specified in chapter 202.
 1063 Information provided under this paragraph may include, but is
 1064 not limited to, any reports required pursuant to s. 202.231,

1065 | audit files, notices of intent to audit, tax returns, and other
 1066 | confidential tax information in the department's possession
 1067 | relating to chapter 202. A person or an entity designated by the
 1068 | local government in writing to the department as requiring
 1069 | access to confidential taxpayer information shall have
 1070 | reasonable access to information provided pursuant to this
 1071 | paragraph. Such person or entity may disclose such information
 1072 | to other persons or entities with direct responsibility for
 1073 | budget preparation, auditing, revenue or financial
 1074 | administration, or legal counsel. Such information shall only be
 1075 | used for purposes related to budget preparation, auditing, and
 1076 | revenue and financial administration. Any confidential and
 1077 | exempt information furnished to a local government, or to any
 1078 | person or entity designated by the local government as
 1079 | authorized by this paragraph may not be further disclosed by the
 1080 | recipient except as provided by this paragraph.

1081 |
 1082 | Disclosure of information under this subsection shall be
 1083 | pursuant to a written agreement between the executive director
 1084 | and the agency. Such agencies, governmental or nongovernmental,
 1085 | shall be bound by the same requirements of confidentiality as
 1086 | the Department of Revenue. Breach of confidentiality is a
 1087 | misdemeanor of the first degree, punishable as provided by s.
 1088 | 775.082 or s. 775.083.

1089 | Section 35. Paragraphs (c) through (k) of subsection (3)
 1090 | and subsections (5) and (6) of section 337.401, Florida
 1091 | Statutes, are amended to read:

1092 | 337.401 Use of right-of-way for utilities subject to

1093 regulation; permit; fees.—

1094 (3)

1095 (c) Any municipality or county which had elected to
 1096 require permit fees from any providers of communications
 1097 services that use or occupy municipal or county roads or rights-
 1098 of-way pursuant to former paragraphs (c) or (j) of this section
 1099 as of January 1, 2013, may continue to require and collect such
 1100 fees. 1. It is the intention of the state to treat all
 1101 providers of communications services that use or occupy
 1102 municipal or charter county roads or rights-of-way for the
 1103 provision of communications services in a nondiscriminatory and
 1104 competitively neutral manner with respect to the payment of
 1105 permit fees. Certain providers of communications services have
 1106 been granted by general law the authority to offset permit fees
 1107 against franchise or other fees while other providers of
 1108 communications services have not been granted this authority. In
 1109 order to treat all providers of communications services in a
 1110 nondiscriminatory and competitively neutral manner with respect
 1111 to the payment of permit fees, each municipality and charter
 1112 county shall make an election under either sub-subparagraph a.
 1113 or sub-subparagraph b. and must inform the Department of Revenue
 1114 of the election by certified mail by July 16, 2001. Such
 1115 election shall take effect October 1, 2001.

1116 a.(I) ~~The municipality or charter county may require and~~
 1117 ~~collect permit fees from any providers of communications~~
 1118 ~~services that use or occupy municipal or county roads or rights-~~
 1119 ~~of-way. All fees permitted under this sub-subparagraph must be~~
 1120 reasonable and commensurate with the direct and actual cost of

1121 the regulatory activity, including issuing and processing
 1122 permits, plan reviews, physical inspection, and direct
 1123 administrative costs; must be demonstrable; and must be
 1124 equitable among users of the roads or rights-of-way. A fee
 1125 permitted under this ~~sub-sub~~paragraph may not: be offset against
 1126 the tax imposed under chapter 202; include the costs of roads or
 1127 rights-of-way acquisition or roads or rights-of-way rental;
 1128 include any general administrative, management, or maintenance
 1129 costs of the roads or rights-of-way; or be based on a percentage
 1130 of the value or costs associated with the work to be performed
 1131 on the roads or rights-of-way. In an action to recover amounts
 1132 due for a fee not permitted under this ~~sub-sub~~paragraph, the
 1133 prevailing party may recover court costs and attorney's fees at
 1134 trial and on appeal. In addition to the limitations set forth in
 1135 this section, a fee levied by a municipality or ~~charter~~ county
 1136 under this ~~sub-sub~~paragraph may not exceed \$100. However, permit
 1137 fees may not be imposed with respect to permits that may be
 1138 required for service drop lines not required to be noticed under
 1139 s. 556.108(5)(a)2. or for any activity that does not require the
 1140 physical disturbance of the roads or rights-of-way or does not
 1141 impair access to or full use of the roads or rights-of-way.

1142 ~~(II) To ensure competitive neutrality among providers of~~
 1143 ~~communications services, for any municipality or charter county~~
 1144 ~~that elects to exercise its authority to require and collect~~
 1145 ~~permit fees under this sub-subparagraph, the rate of the local~~
 1146 ~~communications services tax imposed by such jurisdiction, as~~
 1147 ~~computed under s. 202.20, shall automatically be reduced by a~~
 1148 ~~rate of 0.12 percent.~~

1149 ~~b. Alternatively, the municipality or charter county may~~
 1150 ~~elect not to require and collect permit fees from any provider~~
 1151 ~~of communications services that uses or occupies municipal or~~
 1152 ~~charter county roads or rights-of-way for the provision of~~
 1153 ~~communications services; however, each municipality or charter~~
 1154 ~~county that elects to operate under this sub-subparagraph~~
 1155 ~~retains all authority to establish rules and regulations for~~
 1156 ~~providers of communications services to use or occupy roads or~~
 1157 ~~rights-of-way as provided in this section. If a municipality or~~
 1158 ~~charter county elects to operate under this sub-subparagraph,~~
 1159 ~~the total rate for the local communications services tax as~~
 1160 ~~computed under s. 202.20 for that municipality or charter county~~
 1161 ~~may be increased by ordinance or resolution by an amount not to~~
 1162 ~~exceed a rate of 0.12 percent. If a municipality or charter~~
 1163 ~~county elects to increase its rate effective October 1, 2001,~~
 1164 ~~the municipality or charter county shall inform the department~~
 1165 ~~of such increased rate by certified mail postmarked on or before~~
 1166 ~~July 16, 2001.~~

1167 ~~c. A municipality or charter county that does not make an~~
 1168 ~~election as provided for in this subparagraph shall be presumed~~
 1169 ~~to have elected to operate under the provisions of sub-~~
 1170 ~~subparagraph b.~~

1171 ~~2. Each noncharter county shall make an election under~~
 1172 ~~either sub-subparagraph a. or sub-subparagraph b. and shall~~
 1173 ~~inform the Department of Revenue of the election by certified~~
 1174 ~~mail by July 16, 2001. Such election shall take effect October~~
 1175 ~~1, 2001.~~

1176 ~~a. The noncharter county may elect to require and collect~~

1177 ~~permit fees from any providers of communications services that~~
 1178 ~~use or occupy noncharter county roads or rights-of-way. All fees~~
 1179 ~~permitted under this sub-subparagraph must be reasonable and~~
 1180 ~~commensurate with the direct and actual cost of the regulatory~~
 1181 ~~activity, including issuing and processing permits, plan~~
 1182 ~~reviews, physical inspection, and direct administrative costs;~~
 1183 ~~must be demonstrable; and must be equitable among users of the~~
 1184 ~~roads or rights-of-way. A fee permitted under this sub-~~
 1185 ~~subparagraph may not: be offset against the tax imposed under~~
 1186 ~~chapter 202; include the costs of roads or rights-of-way~~
 1187 ~~acquisition or roads or rights-of-way rental; include any~~
 1188 ~~general administrative, management, or maintenance costs of the~~
 1189 ~~roads or rights-of-way; or be based on a percentage of the value~~
 1190 ~~or costs associated with the work to be performed on the roads~~
 1191 ~~or rights-of-way. In an action to recover amounts due for a fee~~
 1192 ~~not permitted under this sub-subparagraph, the prevailing party~~
 1193 ~~may recover court costs and attorney's fees at trial and on~~
 1194 ~~appeal. In addition to the limitations set forth in this~~
 1195 ~~section, a fee levied by a noncharter county under this sub-~~
 1196 ~~subparagraph may not exceed \$100. However, permit fees may not~~
 1197 ~~be imposed with respect to permits that may be required for~~
 1198 ~~service drop lines not required to be noticed under s.~~
 1199 ~~556.108(5)(a)2. or for any activity that does not require the~~
 1200 ~~physical disturbance of the roads or rights-of-way or does not~~
 1201 ~~impair access to or full use of the roads or rights-of-way.~~
 1202 ~~b. Alternatively, the noncharter county may elect not to~~
 1203 ~~require and collect permit fees from any provider of~~
 1204 ~~communications services that uses or occupies noncharter county~~

1205 ~~roads or rights-of-way for the provision of communications~~
 1206 ~~services; however, each noncharter county that elects to operate~~
 1207 ~~under this sub-subparagraph shall retain all authority to~~
 1208 ~~establish rules and regulations for providers of communications~~
 1209 ~~services to use or occupy roads or rights-of-way as provided in~~
 1210 ~~this section. If a noncharter county elects to operate under~~
 1211 ~~this sub-subparagraph, the total rate for the local~~
 1212 ~~communications services tax as computed under s. 202.20 for that~~
 1213 ~~noncharter county may be increased by ordinance or resolution by~~
 1214 ~~an amount not to exceed a rate of 0.24 percent, to replace the~~
 1215 ~~revenue the noncharter county would otherwise have received from~~
 1216 ~~permit fees for providers of communications services. If a~~
 1217 ~~noncharter county elects to increase its rate effective October~~
 1218 ~~1, 2001, the noncharter county shall inform the department of~~
 1219 ~~such increased rate by certified mail postmarked on or before~~
 1220 ~~July 16, 2001.~~

1221 ~~e. A noncharter county that does not make an election as~~
 1222 ~~provided for in this subparagraph shall be presumed to have~~
 1223 ~~elected to operate under the provisions of sub-subparagraph b.~~

1224 ~~3. Except as provided in this paragraph, municipalities~~
 1225 ~~and counties retain all existing authority to require and~~
 1226 ~~collect permit fees from users or occupants of municipal or~~
 1227 ~~county roads or rights-of-way and to set appropriate permit fee~~
 1228 ~~amounts.~~

1229 ~~(d) After January 1, 2001,~~ In addition to any other notice
 1230 requirements, a municipality must provide to the Secretary of
 1231 State, at least 10 days prior to consideration on first reading,
 1232 notice of a proposed ordinance governing a telecommunications

1233 company placing or maintaining telecommunications facilities in
 1234 its roads or rights-of-way. ~~After January 1, 2001,~~ In addition
 1235 to any other notice requirements, a county must provide to the
 1236 Secretary of State, at least 15 days prior to consideration at a
 1237 public hearing, notice of a proposed ordinance governing a
 1238 telecommunications company placing or maintaining
 1239 telecommunications facilities in its roads or rights-of-way. The
 1240 notice required by this paragraph must be published by the
 1241 Secretary of State on a designated Internet website. The failure
 1242 of a municipality or county to provide such notice does not
 1243 render the ordinance invalid.

1244 (e) The authority of municipalities and counties to
 1245 require franchise fees from providers of communications
 1246 services, with respect to the provision of communications
 1247 services, is specifically preempted by the state because of
 1248 unique circumstances applicable to providers of communications
 1249 services when compared to other utilities occupying municipal or
 1250 county roads or rights-of-way. Providers of communications
 1251 services may provide similar services in a manner that requires
 1252 the placement of facilities in municipal or county roads or
 1253 rights-of-way or in a manner that does not require the placement
 1254 of facilities in such roads or rights-of-way. Although similar
 1255 communications services may be provided by different means, the
 1256 state desires to treat providers of communications services in a
 1257 nondiscriminatory manner and to have the taxes, franchise fees,
 1258 and other fees paid by providers of communications services be
 1259 competitively neutral. Municipalities and counties retain all
 1260 existing authority, if any, to collect franchise fees from users

1261 or occupants of municipal or county roads or rights-of-way other
 1262 than providers of communications services, and the provisions of
 1263 this subsection shall have no effect upon this authority. The
 1264 provisions of this subsection do not restrict the authority, if
 1265 any, of municipalities or counties or other governmental
 1266 entities to receive reasonable rental fees based on fair market
 1267 value for the use of public lands and buildings on property
 1268 outside the public roads or rights-of-way for the placement of
 1269 communications antennas and towers.

1270 (f) Except as expressly allowed or authorized by general
 1271 law and except for the rights-of-way permit fees subject to
 1272 paragraph (c), a municipality or county may not levy on a
 1273 provider of communications services a tax, fee, or other charge
 1274 or imposition for operating as a provider of communications
 1275 services within the jurisdiction of the municipality or county
 1276 which is in any way related to using its roads or rights-of-way.
 1277 A municipality or county may not require or solicit in-kind
 1278 compensation, except as otherwise provided in s. 202.24(2)(c)7.
 1279 ~~s. 202.24(2)(e)8.~~ or s. 610.109. Nothing in this paragraph shall
 1280 impair any ordinance or agreement in effect on May 22, 1998, or
 1281 any voluntary agreement entered into subsequent to that date,
 1282 which provides for or allows in-kind compensation by a
 1283 telecommunications company.

1284 (g) A municipality or county may not use its authority
 1285 over the placement of facilities in its roads and rights-of-way
 1286 as a basis for asserting or exercising regulatory control over a
 1287 provider of communications services regarding matters within the
 1288 exclusive jurisdiction of the Florida Public Service Commission

1289 or the Federal Communications Commission, including, but not
 1290 limited to, the operations, systems, qualifications, services,
 1291 service quality, service territory, and prices of a provider of
 1292 communications services.

1293 (h) A provider of communications services that has
 1294 obtained permission to occupy the roads or rights-of-way of an
 1295 incorporated municipality pursuant to s. 362.01 or that is
 1296 otherwise lawfully occupying the roads or rights-of-way of a
 1297 municipality shall not be required to obtain consent to continue
 1298 such lawful occupation of those roads or rights-of-way; however,
 1299 nothing in this paragraph shall be interpreted to limit the
 1300 power of a municipality to adopt or enforce reasonable rules or
 1301 regulations as provided in this section.

1302 (i) Except as expressly provided in this section, this
 1303 section does not modify ~~the authority of municipalities and~~
 1304 ~~counties to levy the tax authorized in chapter 202 or the duties~~
 1305 of providers of communications services under ss. 337.402-
 1306 337.404. This section does not apply to building permits, pole
 1307 attachments, or private roads, private easements, and private
 1308 rights-of-way.

1309 ~~(j) Pursuant to this paragraph, any county or municipality~~
 1310 ~~may by ordinance change either its election made on or before~~
 1311 ~~July 16, 2001, under paragraph (c) or an election made under~~
 1312 ~~this paragraph.~~

1313 ~~1.a. If a municipality or charter county changes its~~
 1314 ~~election under this paragraph in order to exercise its authority~~
 1315 ~~to require and collect permit fees in accordance with this~~
 1316 ~~subsection, the rate of the local communications services tax~~

1317 ~~imposed by such jurisdiction pursuant to ss. 202.19 and 202.20~~
 1318 ~~shall automatically be reduced by the sum of 0.12 percent plus~~
 1319 ~~the percentage, if any, by which such rate was increased~~
 1320 ~~pursuant to sub-subparagraph (c)1.b.~~

1321 ~~b. If a municipality or charter county changes its~~
 1322 ~~election under this paragraph in order to discontinue requiring~~
 1323 ~~and collecting permit fees, the rate of the local communications~~
 1324 ~~services tax imposed by such jurisdiction pursuant to ss. 202.19~~
 1325 ~~and 202.20 may be increased by ordinance or resolution by an~~
 1326 ~~amount not to exceed 0.24 percent.~~

1327 ~~2.a. If a noncharter county changes its election under~~
 1328 ~~this paragraph in order to exercise its authority to require and~~
 1329 ~~collect permit fees in accordance with this subsection, the rate~~
 1330 ~~of the local communications services tax imposed by such~~
 1331 ~~jurisdiction pursuant to ss. 202.19 and 202.20 shall~~
 1332 ~~automatically be reduced by the percentage, if any, by which~~
 1333 ~~such rate was increased pursuant to sub-subparagraph (c)2.b.~~

1334 ~~b. If a noncharter county changes its election under this~~
 1335 ~~paragraph in order to discontinue requiring and collecting~~
 1336 ~~permit fees, the rate of the local communications services tax~~
 1337 ~~imposed by such jurisdiction pursuant to ss. 202.19 and 202.20~~
 1338 ~~may be increased by ordinance or resolution by an amount not to~~
 1339 ~~exceed 0.24 percent.~~

1340 ~~3.a. Any change of election pursuant to this paragraph and~~
 1341 ~~any tax rate change resulting from such change of election shall~~
 1342 ~~be subject to the notice requirements of s. 202.21; however, no~~
 1343 ~~such change of election shall become effective prior to January~~
 1344 ~~1, 2003.~~

1345 ~~b. Any county or municipality changing its election under~~
 1346 ~~this paragraph in order to exercise its authority to require and~~
 1347 ~~collect permit fees shall, in addition to complying with the~~
 1348 ~~notice requirements under s. 202.21, provide to all dealers~~
 1349 ~~providing communications services in such jurisdiction written~~
 1350 ~~notice of such change of election by September 1 immediately~~
 1351 ~~preceding the January 1 on which such change of election becomes~~
 1352 ~~effective. For purposes of this sub-subparagraph, dealers~~
 1353 ~~providing communications services in such jurisdiction shall~~
 1354 ~~include every dealer reporting tax to such jurisdiction pursuant~~
 1355 ~~to s. 202.37 on the return required under s. 202.27 to be filed~~
 1356 ~~on or before the 20th day of May immediately preceding the~~
 1357 ~~January 1 on which such change of election becomes effective.~~

1358 ~~(k) Notwithstanding the provisions of s. 202.19, when a~~
 1359 ~~local communications services tax rate is changed as a result of~~
 1360 ~~an election made or changed under this subsection, such rate~~
 1361 ~~shall not be rounded to tenths.~~

1362 (5) This section, except subsections (1) and (2) and
 1363 paragraph (3) (f) ~~(g)~~, does not apply to the provision of pay
 1364 telephone service on public, municipal, or county roads or
 1365 rights-of-way.

1366 (6) (a) As used in this subsection, the following
 1367 definitions apply:

1368 1. A "pass-through provider" is any person who places or
 1369 maintains a communications facility in the roads or rights-of-
 1370 way of a municipality or county ~~that levies a tax pursuant to~~
 1371 ~~chapter 202 and who does not remit taxes imposed by that~~
 1372 ~~municipality or county pursuant to chapter 202.~~

1373 2. A "communications facility" is a facility that may be
 1374 used to provide communications services. Multiple cables,
 1375 conduits, strands, or fibers located within the same conduit
 1376 shall be considered one communications facility for purposes of
 1377 this subsection.

1378 (b) A municipality ~~that levies a tax pursuant to chapter~~
 1379 ~~202~~ may charge a pass-through provider not subject to tax under
 1380 chapter 202 that places or maintains a communications facility
 1381 in the municipality's roads or rights-of-way an annual amount
 1382 not to exceed \$500 per linear mile or portion thereof. A
 1383 municipality's roads or rights-of-way do not include roads or
 1384 rights-of-way that extend in or through the municipality but are
 1385 state, county, or another authority's roads or rights-of-way.

1386 (c) A county ~~that levies a tax pursuant to chapter 202~~ may
 1387 charge a pass-through provider not subject to tax under chapter
 1388 202 that places or maintains a communications facility in the
 1389 county's roads or rights-of-way, including county roads or
 1390 rights-of-way within a municipality in the county, an annual
 1391 amount not to exceed \$500 per linear mile or portion thereof.
 1392 However, a county shall not impose a charge for any linear
 1393 miles, or portions thereof, of county roads or rights-of-way
 1394 where a ~~communications facility is placed that extend through~~
 1395 ~~any municipality within the county to which the pass-through~~
 1396 ~~provider remits payment to a municipality a tax imposed pursuant~~
 1397 ~~to chapter 202~~. A county's roads or rights-of-way do not include
 1398 roads or rights-of-way that extend in or through the county but
 1399 are state, municipal, or another authority's roads or rights-of-
 1400 way.

1401 (d) The amounts charged pursuant to this subsection shall
 1402 be based on the linear miles of roads or rights-of-way where a
 1403 communications facility is placed, not based on a summation of
 1404 the lengths of individual cables, conduits, strands, or fibers.
 1405 The amounts referenced in this subsection may be charged only
 1406 once annually and only to one person annually for any
 1407 communications facility. A municipality or county shall
 1408 discontinue charging such amounts to a person that has ceased to
 1409 be a pass-through provider. Any annual amounts charged shall be
 1410 reduced for a prorated portion of any 12-month period during
 1411 which the person remits taxes imposed ~~by the municipality or~~
 1412 ~~county~~ pursuant to chapter 202. Any excess amounts paid to a
 1413 municipality or county under this section shall be refunded to
 1414 the person upon written notice of the excess to the municipality
 1415 or county.

1416 (e) This subsection does not alter any provision of this
 1417 section or s. 202.24 relating to taxes, fees, or other charges
 1418 or impositions by a municipality or county on a dealer of
 1419 communications services or authorize that any charges be
 1420 assessed on a dealer of communications services, except as
 1421 specifically set forth herein. A municipality or county may not
 1422 charge a pass-through provider any amounts other than the
 1423 charges under this subsection as a condition to the placement or
 1424 maintenance of a communications facility in the roads or rights-
 1425 of-way of a municipality or county by a pass-through provider,
 1426 except that a municipality or county may impose permit fees on a
 1427 pass-through provider consistent with paragraph (3) (c) ~~if the~~
 1428 ~~municipality or county elects to exercise its authority to~~

1429 ~~collect permit fees under paragraph (3) (e).~~

1430 (f) The charges under this subsection do not apply to
 1431 communications facilities placed in a municipality's or county's
 1432 rights-of-way prior to the effective date of this subsection
 1433 with permission from the municipality or county, if any was
 1434 required, except to the extent the facilities of a pass-through
 1435 provider were subject to per linear foot or mile charges in
 1436 effect as of October 1, 2001, in which case the municipality or
 1437 county may only impose on a pass-through provider charges
 1438 consistent with paragraph (b) or paragraph (c) for such
 1439 facilities. Notwithstanding the foregoing, this subsection does
 1440 not impair any written agreement between a pass-through provider
 1441 and a municipality or county imposing per linear foot or mile
 1442 charges for communications facilities placed in municipal or
 1443 county roads or rights-of-way that is in effect prior to the
 1444 effective date of this subsection. Upon the termination or
 1445 expiration of any such written agreement, any charges imposed
 1446 shall be consistent with this section ~~paragraph (b) or paragraph~~
 1447 ~~(e). Notwithstanding the foregoing, until October 1, 2005, this~~
 1448 ~~subsection shall not affect a municipality or county continuing~~
 1449 ~~to impose charges in excess of the charges authorized in this~~
 1450 ~~subsection on facilities of a pass-through provider that is not~~
 1451 ~~a dealer of communications services in the state under chapter~~
 1452 ~~202, but only to the extent such charges were imposed by~~
 1453 ~~municipal or county ordinance or resolution adopted prior to~~
 1454 ~~February 1, 2002. Effective October 1, 2005, any charges imposed~~
 1455 ~~shall be consistent with paragraph (b) or paragraph (e).~~

1456 (g) The charges authorized in this subsection shall not be

1457 applied with respect to any communications facility that is used
 1458 exclusively for the internal communications of an electric
 1459 utility or other person in the business of transmitting or
 1460 distributing electric energy.

1461 Section 36. Revenue received by a taxing authority under
 1462 this act shall be deemed to replace any taxes or fees previously
 1463 imposed but repealed by this act. If the repeal under this act
 1464 of a taxing authority's authority to levy taxes or fees impairs
 1465 security pledged to retire the authority's bonded indebtedness
 1466 secured by such taxes or fees, then to the extent of any such
 1467 impairment, a like sum of revenue received by the authority
 1468 under this act shall be deemed as a matter of law to replace
 1469 said taxes and fees as security for the bonded indebtedness.

1470 Section 37. The taxes imposed by ss. 202.12 and 203.01,
 1471 Florida Statutes, on communications services shall be applied in
 1472 accordance with chapter 202, Florida Statutes, as amended by
 1473 this act, to communications services reflected on bills dated on
 1474 or after January 1, 2014.

1475 Section 38. Effective upon this act becoming a law, the
 1476 executive director of the Department of Revenue is authorized,
 1477 and all conditions are deemed met, to adopt emergency rules
 1478 under ss. 120.536(1) and 120.54(4), Florida Statutes, for the
 1479 purpose of implementing this act. Notwithstanding any other
 1480 provision of law, such emergency rules shall remain in effect
 1481 for 6 months after the date adopted and may be renewed during
 1482 the pendency of procedures to adopt permanent rules addressing
 1483 the subject of the emergency rules.

1484 Section 39. The changes to the definition(s) of "prepaid

1485 calling arrangement” made by sections 1 and 27 of this act are
 1486 intended to be remedial in nature and apply retroactively, but
 1487 do not provide a basis for an assessment of any tax not paid or
 1488 create a right to a refund or credit of any tax paid before the
 1489 effective date of this act.

1490 Section 40. Except as otherwise expressly provided in this
 1491 act and except for this section, which shall take effect July 1,
 1492 2013, this act shall take effect January 1, 2014.

LOCAL BUSINESS TAX REFORM LEGISLATIVE CONCEPTS

Finance and Tax Subcommittee
Florida House of Representatives
Rep. Ritch Workman, Chair
February 21, 2013

LOCAL BUSINESS TAX REFORM CONCEPTS- PURPOSE

- Overarching purpose is to replace the current local business tax structure in ch. 205, F.S., with a simplified version of the tax that is more consistent across various business types and among taxing jurisdictions. Key elements are:
 1. Uniform classification system.
 2. Flexible rate structure.
 3. Grandfathering certain local taxing jurisdictions under specified circumstances.
 4. No “overlap” of city and county taxes.
 5. Continuation of local administration of the tax.
 6. Transition to new structure October 1, 2014, allowing taxing jurisdictions to replace the revenues raised under the prior system.

LOCAL BUSINESS TAX REFORM CONCEPTS- UNIFORM CLASSIFICATION SYSTEM

- Three Classifications:
 - Less than 2,500 square feet
 - Between 2,500 square feet and 10,000 square feet; and
 - More than 10,000 square feet

LOCAL BUSINESS TAX REFORM CONCEPTS- FLEXIBLE RATE STRUCTURE

- Rate Structure would “link” classifications:
 - Middle classification can have rate equal to, but no more than 3 times the small size classification.
 - Large classification can have rate equal to, but no more than 3 times the middle size classification.
- Could raise rates every seven years by up to 10 percent.
- Allows for natural growth of revenue.

LOCAL BUSINESS TAX REFORM CONCEPTS- GRANDFATHERING

- Grandfathering Provisions:
 - Outstanding Bonds or Certificates
 - Jurisdictions with Extraordinary Reliance on the Tax

LOCAL BUSINESS TAX REFORM CONCEPTS- “OVERLAP” OF CITY AND COUNTY TAXES

- County taxes can be levied only in unincorporated portions of the county.

LOCAL BUSINESS TAX REFORM CONCEPTS- ADMINISTRATIVE PROCESSES

- Most of the administrative processes in current law are retained.
- Exceptions:
 - The tax initially and any future rate increases require two-thirds majority of the governing body of the taxing jurisdiction.
 - City may no longer collect the tax on behalf of the county.

LOCAL BUSINESS TAX REFORM CONCEPTS- TRANSITION

- Cities and Counties not Grandfathered must adopt new ordinances before October 1, 2014
- Mechanism for revenue neutrality:
 - Revenues in the first fiscal year (2014-15) may not exceed 105% of the revenues generated in the prior year- if they do:
 - Adjust rates to bring revenues within the 105% threshold.
 - Refund to businesses the excess revenue collected.

LOCAL BUSINESS TAX REFORM CONCEPTS

Questions?

LOCAL BUSINESS TAX REFORM CONCEPT LANGUAGE OVERVIEW

Purpose

The draft language embodies concepts with an overarching purpose to replace the current local business tax structure in ch. 205, F.S., with a simplified version of the tax that is more consistent across various business types and among taxing jurisdictions. This is accomplished by:

1. Establishing a uniform classification system.
2. Establishing a flexible rate structure.
3. Grandfathering certain local taxing jurisdictions to allow taxation under the current structure to continue under specified circumstances.
4. Eliminating “overlap” of city and county taxes.
5. Retaining current local administration of the tax.
6. Providing that the new structure becomes effective October 1, 2014, providing for a transition process from the current structure to the new structure, and allowing taxing jurisdictions to replace the revenues raised under the prior system.

Background

Under ch. 205, F.S., a city or county may levy a local business tax for the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. The tax proceeds are considered general revenue for the local government.¹ This tax does not refer to any regulatory fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection.²

Based upon the most recent information available, approximately 30-40 counties and 270-290 cities levy a local business tax. In fiscal year 2010-11, these taxes generated \$28.9 million for counties and \$136.7 million for cities.

Uniform Classification System

Current Law

Generally speaking, under current law, there are few restrictions upon the nature of the classification system that may be used by a city or a county currently levying a local business tax. The tax must be “based upon reasonable classifications and must be uniform throughout any class.”³ However, cities and counties that are currently levying a local business tax are effectively restricted from reforming or altering their existing classification systems.⁴ A city or county that has not yet adopted a local business tax may adopt a business tax.⁵ In that circumstance, the classifications in the newly adopted ordinance must be reasonable and based upon the classifications prescribed in ordinances adopted by adjacent local governments that have implemented a local business tax. If no adjacent local government has implemented a

¹ Sections 205.033 and 205.042, F.S.

² Section 205.022(5), F.S.

³ Sections 205.033 and 205.043, F.S.

⁴ Section 205.0535, F.S.

⁵ Section 205.0315, F.S.

local business tax, or if the governing body of the city or county finds that the classifications of adjacent local governments are unreasonable, then an alternative method is authorized. In such a case, the classifications prescribed in the ordinance of the local government seeking to impose the tax may be based upon those prescribed in ordinances adopted by local governments that have implemented a local business tax, in cities or counties that have a comparable population.

Concept Language

The concept language contains a new classification system with three classifications based upon the square footage of the premises upon which a business operates⁶. Those are:

- Less than 2,500 square feet
- Between 2,500 square feet and 10,000 square feet; and
- More than 10,000 square feet

The classification a business falls under is determined based upon that portion of the premises that the business has exclusive control over, either through ownership or by lease.

This classification system will be used throughout the state under the new structure with no differences between jurisdictions (unless one of the grandfathering provisions discussed below applies).

The new structure will retain the exemptions contained in current law, except for repealing a grandfathering provision contained in an exemption added to current law in 2011⁷ related to employees. Under that exemption, an individual who engages in or manages a business, profession, or occupation as an employee of another person is not required to pay a local business tax.⁸ That exemption currently provides that cities or counties that before October 13, 2010, had a classification system that actually resulted in individual employees paying a business tax may continue to impose such a tax in that manner. The new structure will eliminate this exception to the exemption.⁹

Flexible Rate Structure

Current Law

Currently, cities and counties that underwent a reclassification and rate structure revision pursuant to s. 205.0535, F.S., prior to October 1, 1995, or during a window of time available from July 1, 2007, through October 1, 2008, for certain cities may, every other year, increase or decrease by ordinance the rates of business taxes by up to 5 percent. An increase may not be enacted by less than a majority plus one vote of the governing body. A city or county is not prohibited from decreasing or repealing any authorized local business tax.

⁶ Found in section 2 of the concept language.

⁷ Ch. 2011-78, L.O.F.

⁸ Section 205.066(1), F.S.

⁹ Found in section 14 of the concept language.

As noted above, a city or county that has not yet adopted a local business tax currently may adopt a local business tax. The restrictions described above relating to a newly adopted classification system also apply to a newly adopted rate structure.¹⁰

Under current law, revenue increases attributed to the increases in the number of receipts issued are authorized.¹¹

Concept Language

The concept language allows rates to be set in order to achieve revenue neutrality (this is described in more detail in the “transition” discussion below). However, the rates allowed between the three classifications described above must stay within certain levels relative to the other classes.¹² Specifically, the rate for the classification for businesses between 2,500 square feet and 10,000 square feet can be equal to, but no more than, three times the rate for the under 2,500 square feet classification. Likewise, the rate for the over 10,000 feet classification can be equal to, but no more than, three times the rate for the classification of businesses between 2,500 and 10,000 square feet.

Going forward, cities and counties, beginning in fiscal year 2020-21 and every seven years thereafter will be able to increase their local business tax rates by up to 10 percent in an ordinance approved by a two-thirds majority of their governing body.¹³

The concept language retains the authority for revenue increases attributed to the number of receipts issued. In other words, revenue increases that naturally result from normal growth of the number of businesses located within a city or county are authorized.¹⁴

Grandfathering

The concept language contains two “grandfathering” provisions¹⁵ that allow a city or a county imposing a local business tax as of September 30, 2014, to retain that tax under the current structure:

- Outstanding Bonds

To meet all obligations to or for the benefit of holders of bonds or certificates that were issued before March 1, 2013, and for which taxes levied pursuant to ch. 205, F.S., are expressly identified and pledged as security, separate from any other pledge of non-ad valorem revenues; or

- Jurisdictions with Extraordinary Reliance on the Tax

Any city or county whose business tax receipts in its 2012-13 fiscal year comprised at least 20 percent of the city’s or county’s total revenue derived from local taxes levied by the city or county in that fiscal year may continue to levy such tax in the same manner and with the same rates and classifications as are in effect on February 1, 2013, until

¹⁰ Section 205.0315, F.S.

¹¹ Section 205.0535(3)(c), F.S.

¹² Found in section 3 of the concept language.

¹³ Found in section 11 of the concept language.

¹⁴ Found in section 11 of the concept language.

¹⁵ Found in sections 16 and 17 of the concept language.

September 30, 2018. However, any such city or county that chooses to continue to levy such tax may not increase its general county millage, general municipal millage, or any dependent special district millage above the level in effect for fiscal year 2013-14 in any fiscal year through September 30, 2018, unless a majority of the electors of the qualifying city or qualifying county voting in a general or special election held not more than 12 months before the increased rate takes effect has approved the increased rate.

“Overlap” of City and County Taxes

Under current law, county local business taxes generally apply to businesses located throughout the county, including both incorporated and unincorporated portions of the county. The result is that a business located in a city may be required to pay one local business tax to the city and another local business tax to the county. The concept language eliminates this “overlap” by providing that the county local business tax may only apply in the unincorporated portions of the county.

Administrative Processes

Current Law

Under current law, in order to levy a business tax, the governing body of the city or county must first give at least 14 days of public notice between the first and last reading of the resolution or ordinance by publishing a notice in a newspaper of general circulation within its jurisdiction as defined by law.¹⁶ The public notice must contain the proposed classifications and rates applicable to the business tax. A number of other conditions for levy are imposed on cities and counties.¹⁷

The governing body of a city that levies the tax may request that the county in which the city is located issue the municipal receipt and collect the tax.¹⁸ The governing body of a county that levies the tax may request that cities within the county issue the county receipt and collect the tax. However, before any local government issues any business receipts on behalf of another local government, appropriate agreements must be entered into by the affected local governments. All business tax receipts are sold by the appropriate tax collector beginning July 1st of each year.¹⁹ The taxes are due and payable on or before September 30th of each year, and the receipts expire on September 30th of the succeeding year. In several situations, administrative penalties are also imposed.

Section 205.194, F.S., provides that any person applying for or renewing a local business tax receipt to practice any profession or engage in or manage any business or occupation regulated by the Department of Business and Professional Regulation, the Florida Supreme Court, or any other state regulatory agency, including any board or commission thereof, must exhibit an active state certificate, registration, or license, or proof of copy of the same, before such local receipt may be issued.

Sections 205.196, 205.1965, 205.1967, 205.1969, 205.1971, 205.1973 and 205.1975, F.S., provide similar requirements for production of evidence of appropriate licensure prior to

¹⁶ Sections 205.033 and 205.042, F.S.

¹⁷ Sections 205.033 and 205.043, F.S.

¹⁸ Section 205.045, F.S.

¹⁹ Section 205.053, F.S.

issuance of a business tax receipt for pharmacies and pharmacists, assisted living facilities, pest control, health studios, sellers of travel and telemarketing businesses, respectively.

Concept Language

Under the concept language, most of the administrative processes in current law are retained. Exceptions include a requirement under the new structure that the tax and any future rate increases be approved by a two-thirds majority of the governing body of the city or county in question.²⁰ Another exception is that while a city may continue to request that the county in which the city is located collect its local business tax, the county may no longer request the same of a city.²¹

Transition

The concept language provides for a transition from the current structure in ch. 205, F.S., for local business taxes, to the new structure as described above beginning October 1, 2014. Cities and counties are allowed to continue levying local business taxes pursuant to the provisions of ch. 205, F.S., until September 30, 2014. Local business taxes in effect on September 30, 2014 are not authorized beyond that date. Beginning October 1, 2014, all local business taxes must be approved and levied pursuant to, and in accordance with, the provisions of ch. 205, F.S., as amended by the concept language. Cities and counties wishing to continue levying a local business tax are expressly allowed to adopt the required ordinance at any time after July 1, 2013, and schedule it to become effective beginning October 1, 2014.²²

A mechanism is provided where cities and counties that transition from the old structure to the new structure must do so in a revenue neutral manner.²³ The concept language accomplishes this by providing that those cities and counties that make the transition must not, in local fiscal year 2014-15, generate more than 105% of the revenue generated in the prior fiscal year under the previous tax structure. If that revenue threshold is crossed, the city or county must:

- Adjust the rates of their local business tax to the extent necessary to reduce revenues to the threshold amounts described above as soon as reasonably practicable; and
- The city or county must refund the revenue generated in excess of the threshold amounts described above on a prorata basis to the businesses that paid the local business tax. Such refunds may be granted as a credit against tax due in the subsequent year.

Effective Date

Most of the concept language becomes effective October 1, 2014, except for a provision related to transition²⁴ and the grandfathering provisions, which take effect July 1, 2013.²⁵

²⁰ Found in sections 5 and 7 of the concept language.

²¹ Found in section 9 of the concept language.

²² Primarily found in section 15 of the concept language.

²³ Found in section 11 of the concept language.

²⁴ Found in section 15 of the concept language.

²⁵ Found in sections 16 and 17 of the concept language.

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1 A bill to be entitled
 2 An act relating to local business taxes; amending s.
 3 205.022, F.S.; amending definitions; creating s.
 4 205.025, F.S.; creating and specifying
 5 classifications; creating s. 205.027, F.S.; defining
 6 parameters for rates; amending s. 205.0315, F.S.;
 7 providing procedure after October 1, 2014, for a
 8 county or municipality that has not adopted a business
 9 tax ordinance to adopt such an ordinance; amending s.
 10 205.032, F.S.; requiring a county ordinance levying a
 11 local business tax to be approved by a two-thirds
 12 majority of the governing body of the county;
 13 providing that such a local business tax will only
 14 apply to businesses in the unincorporated portions of
 15 the county; amending s. 205.033, F.S.; removing
 16 obsolete language; amending s. 205.042, F.S.;
 17 requiring a municipal ordinance levying a local
 18 business tax to be approved by a two-thirds majority
 19 of the governing body of the municipality; amending s.
 20 205.043, F.S.; removing obsolete language; amending s.
 21 205.045, F.S.; eliminating authority for a
 22 municipality to issue a local business tax receipt and
 23 collect the tax on behalf of a county; amending s.
 24 205.053, F.S.; removing obsolete language; amending s.
 25 205.0535, F.S.; providing parameters for the rate
 26 structure and amount of revenue derived therefrom for
 27 local business taxes in the local 2014-15 fiscal year;
 28 repealing s. 205.0536, F.S.; amending s. 205.054,

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29 F.S.; providing conforming language; amending s.
 30 205.066, F.S.; removing an exception to an exemption;
 31 providing legislative intent to revise and simplify
 32 local business taxation in the state; authorizing the
 33 continuation of local business taxation under current
 34 structure, to the extent necessary to meet specified
 35 debt obligations secured by local business tax
 36 revenues; authorizing the continuation of local
 37 business taxation under current structure until
 38 September 30, 2018 for counties and municipalities
 39 meeting specified criteria; providing effective dates.
 40

41 Be It Enacted by the Legislature of the State of Florida:
 42

43 Section 1. Subsections (3) and (5) of section 205.022,
 44 Florida Statutes, are amended to read:

45 205.022 Definitions.—When used in this chapter, the
 46 following terms and phrases shall have the meanings ascribed to
 47 them in this section, except when the context clearly indicates
 48 a different meaning:

49 (3) "Classification" means the method by which a business
 50 or group of businesses is identified ~~by size or type, or both.~~

51 (5) "Local business tax" means the ~~fees~~ taxes charged and
 52 the method by which a local governing authority grants the
 53 privilege of engaging in or managing any business, profession,
 54 or occupation within its jurisdiction. It does not mean any fees
 55 or licenses paid to any board, commission, or officer for
 56 permits, registration, examination, or inspection. Unless

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57 otherwise provided by law, these are deemed to be regulatory and
 58 in addition to, but not in lieu of, any local business tax
 59 imposed under the provisions of this chapter.

60 Section 2. Section 205.025, Florida Statutes, is created
 61 to read:

62 205.025 Classification.—

63 (1) For the purposes of this chapter, business
 64 classifications shall be based upon the square footage of the
 65 premises upon which the business operates and are limited to the
 66 following three classifications:

- 67 (a) Less than 2,500 square feet.
- 68 (b) Between 2,500 square feet and 10,000 square feet.
- 69 (c) More than 10,000 square feet.

70 (2) To determine which classification a business falls
 71 under, the square footage of the premises upon which a business
 72 operates shall be determined based upon that portion of the
 73 premises that the business has exclusive control over, either
 74 through ownership or tenancy.

75 Section 3. Section 205.027, Florida Statutes, is created
 76 to read:

77 205.027 Rates.

78 (1) Counties and municipalities levying a local business
 79 tax pursuant to this chapter must use a rate structure where the
 80 rate applied to businesses classified under s. 205.025(1)(b) is
 81 at least equal to, but no more than three hundred percent of the
 82 rate applied to businesses classified under s. 205.025(1)(a),
 83 and the rate applied to businesses classified under s.
 84 205.025(1)(c) is at least equal to, but no more than three

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85 hundred percent of the rate applied to businesses classified
 86 under s. 205.025(1)(b).

87 Section 4. Section 205.0315, Florida Statutes, is amended
 88 to read:

89 205.0315 Ordinance adoption after October 1, ~~1995~~ 2014.—
 90 Beginning October 1, ~~1995~~ 2014, a county or municipality that
 91 has not adopted a business tax ordinance ~~or resolution~~ may adopt
 92 a business tax ordinance consistent with the provisions of this
 93 chapter. The business tax rate structure ~~and classifications~~ in
 94 the adopted ordinance must be reasonable and based upon the rate
 95 structure ~~and classifications~~ prescribed in ordinances adopted
 96 by adjacent local governments ~~that have implemented s. 205.0535~~.
 97 ~~If no adjacent local government has implemented s. 205.0535, or~~
 98 ~~if~~ the governing body of the county or municipality finds that
 99 the rate structures ~~or classifications~~ of adjacent local
 100 governments are unreasonable, the rate structure ~~or~~
 101 ~~classifications~~ prescribed in its ordinance may be based upon
 102 those prescribed in ordinances adopted by local governments ~~that~~
 103 ~~have implemented s. 205.0535~~ in counties or municipalities that
 104 have a comparable population.

105 Section 5. Section 205.032, Florida Statutes, is amended
 106 to read:

107 205.032 Levy; counties.—The governing body of a county may
 108 levy, by ~~appropriate resolution or ordinance~~ approved by at
 109 least a two-thirds majority of the governing body of the county,
 110 a business tax for the privilege of engaging in or managing any
 111 business, profession, or occupation within the unincorporated
 112 portions of its jurisdiction. However, the governing body must

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113 first give at least 14 days' public notice between the first and
 114 last reading of the ~~resolution or~~ ordinance by publishing a
 115 notice in a newspaper of general circulation within its
 116 jurisdiction as defined by law. The public notice must contain
 117 the proposed classifications and rates applicable to the
 118 business tax.

119 Section 6. Section 205.033, Florida Statutes, is amended
 120 to read:

121 205.033 Conditions for levy; counties.—

122 (1) The following conditions are imposed on the authority
 123 of a county governing body to levy a business tax:

124 (a) The tax must be based upon ~~reasonable~~ the three
 125 classifications contained in s. 205.025 and must be uniform
 126 throughout any class.

127 (b) ~~Unless the county implements s. 205.0535 or adopts a~~
 128 ~~new business tax ordinance under s. 205.0315, a business tax~~
 129 ~~levied under this subsection may not exceed the rate provided by~~
 130 ~~this chapter in effect for the year beginning October 1, 1971,~~
 131 ~~however, beginning October 1, 1980, the county governing body~~
 132 ~~may increase business taxes authorized by this chapter. The~~
 133 ~~amount of the increase above the tax rate levied on October 1,~~
 134 ~~1971, for taxes levied at a flat rate may be up to 100 percent~~
 135 ~~for business taxes that are \$100 or less; 50 percent for~~
 136 ~~business taxes that are between \$101 and \$300; and 25 percent~~
 137 ~~for business taxes that are more than \$300. Beginning October 1,~~
 138 ~~1982, the increase may not exceed 25 percent for taxes levied at~~
 139 ~~graduated or per unit rates. Authority to increase business~~
 140 ~~taxes does not apply to licenses or receipts granted to any~~

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141 utility franchised by the county for which a franchise fee is
 142 paid.

143 (c) A receipt is not valid for more than 1 year, and all
 144 receipts expire on September 30 of each year, except as
 145 otherwise provided by law.

146 (2) Any receipt may be transferred to a new owner, when
 147 there is a bona fide sale of the business, upon payment of a
 148 transfer fee of up to 10 percent of the annual business tax, but
 149 not less than \$3 nor more than \$25, and presentation of the
 150 original receipt and evidence of the sale.

151 (3) Upon written request and presentation of the original
 152 receipt, any receipt may be transferred from one location to
 153 another location in the same county upon payment of a transfer
 154 fee of up to 10 percent of the annual business tax, but not less
 155 than \$3 nor more than \$25.

156 ~~(4) The revenues derived from the business tax, exclusive~~
 157 ~~of the costs of collection and any credit given for municipal~~
 158 ~~business taxes, shall be apportioned between the unincorporated~~
 159 ~~area of the county and the incorporated municipalities located~~
 160 ~~therein by a ratio derived by dividing their respective~~
 161 ~~populations by the population of the county. This subsection~~
 162 ~~does not apply to counties that have established a new rate~~
 163 ~~structure under s. 205.0535.~~

164 ~~(5) The revenues so apportioned shall be sent to the~~
 165 ~~governing authority of each municipality, according to its~~
 166 ~~ratio, and to the governing authority of the county, according~~
 167 ~~to the ratio of the unincorporated area, within 15 days~~
 168 ~~following the month of receipt. This subsection does not apply~~

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169 ~~to counties that have established a new rate structure under s.~~
 170 ~~205.0535.~~

171 (64) (a) Each county, as defined in s. 125.011(1), or any
 172 county adjacent thereto may levy and collect, by an ordinance
 173 enacted by the governing body of the county, an additional
 174 business tax up to 50 percent of the appropriate business tax
 175 imposed under subsection (1).

176 (b) ~~Subsections (4) and (5) do not apply to any revenues~~
 177 ~~derived from the additional tax imposed under this subsection.~~
 178 Proceeds from the additional business tax must be placed in a
 179 separate interest-earning account, and the governing body of the
 180 county shall distribute this revenue, plus accrued interest,
 181 each fiscal year to an organization or agency designated by the
 182 governing body of the county to oversee and implement a
 183 comprehensive economic development strategy through advertising,
 184 promotional activities, and other sales and marketing
 185 techniques.

186 (c) An ordinance that levies an additional business tax
 187 under this subsection may not be adopted after January 1, ~~199~~
 188 2015.

189 (75) Notwithstanding any other provisions of this chapter,
 190 the revenue received from a county business tax may be used for
 191 overseeing and implementing a comprehensive economic development
 192 strategy through advertising, promotional activities, and other
 193 sales and marketing techniques.

194 Section 7. Section 205.042, Florida Statutes, is amended
 195 to read:

196 205.042 Levy; municipalities.—The governing body of an

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197 incorporated municipality may levy, by ~~appropriate resolution or~~
 198 ordinance approved by at least a two-thirds majority of the
 199 governing body of the municipality, a business tax for the
 200 privilege of engaging in or managing any business, profession,
 201 or occupation within its jurisdiction. However, the governing
 202 body must first give at least 14 days' public notice between the
 203 first and last reading of the ~~resolution or~~ ordinance by
 204 publishing the notice in a newspaper of general circulation
 205 within its jurisdiction as defined by law. The notice must
 206 contain the proposed classifications and rates applicable to the
 207 business tax. The business tax may be levied on:

208 (1) Any person who maintains a permanent business location
 209 or branch office within the municipality, for the privilege of
 210 engaging in or managing any business within its jurisdiction.

211 (2) Any person who maintains a permanent business location
 212 or branch office within the municipality, for the privilege of
 213 engaging in or managing any profession or occupation within its
 214 jurisdiction.

215 (3) Any person who does not qualify under subsection (1)
 216 or subsection (2) and who transacts any business or engages in
 217 any occupation or profession in interstate commerce, if the
 218 business tax is not prohibited by s. 8, Art. I of the United
 219 States Constitution.

220 Section 8. Subsection (1) of section 205.043, Florida
 221 Statutes, is amended to read:

222 205.043 Conditions for levy; municipalities.—

223 (1) The following conditions are imposed on the authority
 224 of a municipal governing body to levy a business tax:

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225 (a) The tax must be based upon ~~reasonable~~ the three
 226 classifications contained in s. 205.025 and must be uniform
 227 throughout any class.

228 (b) ~~Unless the municipality implements s. 205.0535 or~~
 229 ~~adopts a new business tax ordinance under s. 205.0315, a~~
 230 ~~business tax levied under this subsection may not exceed the~~
 231 ~~rate in effect in the municipality for the year beginning~~
 232 ~~October 1, 1971; however, beginning October 1, 1980, the~~
 233 ~~municipal governing body may increase business taxes authorized~~
 234 ~~by this chapter. The amount of the increase above the tax rate~~
 235 ~~levied on October 1, 1971, for taxes levied at a flat rate may~~
 236 ~~be up to 100 percent for business taxes that are \$100 or less;~~
 237 ~~50 percent for business taxes that are between \$101 and \$300;~~
 238 ~~and 25 percent for business taxes that are more than \$300.~~
 239 ~~Beginning October 1, 1982, an increase may not exceed 25 percent~~
 240 ~~for taxes levied at graduated or per unit rates. Authority to~~
 241 ~~increase business taxes does not apply to receipts or licenses~~
 242 ~~granted to any utility franchised by the municipality for which~~
 243 ~~a franchise fee is paid.~~

244 (c) A receipt is not valid for more than 1 year and all
 245 receipts expire on September 30 of each year, except as
 246 otherwise provided by law.

247 Section 9. Section 205.045, Florida Statutes, is amended
 248 to read:

249 205.045 Transfer of administrative duties.—The governing
 250 body of a municipality that levies a business tax may request
 251 that the county in which the municipality is located issue the
 252 municipal receipt and collect the tax thereon. ~~The governing~~

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253 ~~body of a county that levies a business tax may request that~~
 254 ~~municipalities within the county issue the county receipt and~~
 255 ~~collect the tax thereon.~~ Before any local government county may
 256 issue receipts on behalf of ~~another local government~~ a
 257 municipality, appropriate interlocal agreements must be entered
 258 into by the affected local governments.

259 Section 10. Subsection (1) of section 205.053, Florida
 260 Statutes, is amended to read:

261 205.053 Business tax receipts; dates due and delinquent;
 262 penalties.—

263 (1) All business tax receipts shall be sold by the
 264 appropriate tax collector beginning July 1 of each year, are due
 265 and payable on or before September 30 of each year, and expire
 266 on September 30 of the succeeding year. If September 30 falls on
 267 a weekend or holiday, the tax is due and payable on or before
 268 the first working day following September 30. Provisions for
 269 partial receipts may be made in the ~~resolution or~~ ordinance
 270 authorizing such receipts. Receipts that are not renewed when
 271 due and payable are delinquent and subject to a delinquency
 272 penalty of 10 percent for the month of October, plus an
 273 additional 5 percent penalty for each subsequent month of
 274 delinquency until paid. However, the total delinquency penalty
 275 may not exceed 25 percent of the business tax for the delinquent
 276 establishment.

277 Section 11. Section 205.0535, Florida Statutes, is amended
 278 to read:

279 205.0535 Reclassification and rate structure revisions.—

280 ~~(1) By October 1, 2008, any municipality that has adopted~~

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281 ~~by ordinance a local business tax after October 1, 1995, may by~~
 282 ~~ordinance reclassify businesses, professions, and occupations~~
 283 ~~and may establish new rate structures, if the conditions~~
 284 ~~specified in subsections (2) and (3) are met. A person who is~~
 285 ~~engaged in the business of providing local exchange telephone~~
 286 ~~service or a pay telephone service in a municipality or in the~~
 287 ~~unincorporated area of a county and who pays the business tax~~
 288 ~~under the category designated for telephone companies or a pay~~
 289 ~~telephone service provider certified pursuant to s. 364.3375 is~~
 290 ~~deemed to have but one place of business or business location in~~
 291 ~~each municipality or unincorporated area of a county. Pay~~
 292 ~~telephone service providers may not be assessed a business tax~~
 293 ~~on a per-instrument basis.~~

294 ~~—— (2) Before adopting a reclassification and revision~~
 295 ~~ordinance, the municipality or county must establish an equity~~
 296 ~~study commission and appoint its members. Each member of the~~
 297 ~~study commission must be a representative of the business~~
 298 ~~community within the local government's jurisdiction. Each~~
 299 ~~equity study commission shall recommend to the appropriate local~~
 300 ~~government a classification system and rate structure for~~
 301 ~~business taxes.~~

302 ~~—— (3)(a) After the reclassification and rate structure~~
 303 ~~revisions have been transmitted to and considered by the~~
 304 ~~appropriate local governing body, it may adopt by majority vote~~
 305 ~~a new business tax ordinance. Except that a minimum tax of up to~~
 306 ~~\$25 is permitted, the reclassification may not increase the tax~~
 307 ~~by more than the following: for receipts costing \$150 or less,~~
 308 ~~200 percent; for receipts costing more than \$150 but not more~~

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309 ~~than \$500, 100 percent; for receipts costing more than \$500 but~~
 310 ~~not more than \$2,500, 75 percent; for receipts costing more than~~
 311 ~~\$2,500 but not more than \$10,000, 50 percent; and for receipts~~
 312 ~~costing more than \$10,000, 10 percent; however, in no case may~~
 313 ~~the tax on any receipt be increased more than \$5,000.~~

314 (b1) Beginning October 1, 2014, the total annual revenue
 315 generated by the new rate structure for the local 2014-15 fiscal
 316 year following the fiscal year during which the rate structure
 317 is adopted may not exceed:

318 1a. For municipalities, the sum of the revenue base and
 319 105 percent of that revenue base. The revenue base is the sum of
 320 the business tax revenue generated by receipts issued for the
 321 most recently completed local fiscal year ~~or the amount of~~
 322 ~~revenue that would have been generated from the authorized~~
 323 ~~increases under s. 205.043(1)(b), whichever is greater, plus any~~
 324 revenue received from the county under former s. 205.033(4).

325 2b. For counties, the sum of the revenue base, and 105
 326 percent of that revenue base, and the amount of revenue
 327 ~~distributed by the county to the municipalities under s.~~
 328 ~~205.033(4) during the most recently completed local fiscal year.~~
 329 The revenue base is the business tax revenue generated by
 330 receipts issued for the most recently completed local fiscal
 331 year ~~or the amount of revenue that would have been generated~~
 332 ~~from the authorized increases under s. 205.033(1)(b), whichever~~
 333 ~~is greater, but may not include any revenues distributed to~~
 334 municipalities under former s. 205.033(4).

335 (2) If, for the period October 1, 2014, through September
 336 30, 2015, the revenues received by a local government from the

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337 local business tax rate established under s. 205.027(1), are
 338 above the thresholds established in subsection (1), the
 339 governing authority must adjust the rates of the local business
 340 tax to the extent necessary to reduce revenues to the threshold
 341 amounts established in subsection (1) by ordinance as soon as
 342 reasonably practicable.

343 (3) If a reduction in tax rates is required pursuant to
 344 subsection (2), the county or municipality shall refund the
 345 revenue generated in excess of the threshold established in
 346 subsection (2) on a prorata basis to the businesses that paid
 347 the local business tax. Such refunds may be granted as a credit
 348 against tax due in the subsequent year.

349 (e4) In addition to the revenue increases expressly
 350 authorized under this section by paragraph (b), revenue increases
 351 attributed to the increases in the number of receipts issued are
 352 authorized.

353 (45) After the conditions specified in subsections (2) and
 354 (3) are met, municipalities and counties may, beginning in
 355 local fiscal year 2020-21 and every other seven years
 356 thereafter, increase or decrease by ordinance the rates of
 357 business taxes by up to 510 percent. An increase, however, may
 358 not be enacted by less than a majority plus one vote two-thirds
 359 of the governing body. Nothing in this chapter shall be
 360 construed to prohibit a municipality or county from decreasing
 361 or repealing any business tax authorized under this chapter.

362 (56) A receipt may not be issued unless the federal
 363 employer identification number or social security number is
 364 obtained from the person to be taxed.

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365 Section 12. Section 205.0536, Florida Statutes, is
 366 repealed.

367 Section 13. Subsections (1), (5), and (6) of section
 368 205.054, Florida Statutes, are amended to read:

369 205.054 Business tax; partial exemption for engaging in
 370 business or occupation in enterprise zone.—

371 (1) Notwithstanding the provisions of s. 205.033(1)(a) or
 372 s. 205.043(1)(a), the governing body of a county or municipality
 373 may authorize by appropriate ~~resolution or~~ ordinance, adopted
 374 pursuant to the procedure established in s. 205.032 or s.
 375 205.042, the exemption of 50 percent of the business tax levied
 376 for the privilege of engaging in or managing any business,
 377 profession, or occupation ~~in the respective jurisdiction~~ by of
 378 the county or municipality when such privilege is exercised at a
 379 permanent business location or branch office located in an
 380 enterprise zone.

381 (5) If an area nominated as an enterprise zone pursuant to
 382 s. 290.0055 has not yet been designated pursuant to s. 290.0065,
 383 the governing body of a county or municipality may enact the
 384 appropriate ordinance ~~or resolution~~ authorizing the exemption
 385 permitted in this section; however, such ordinance ~~or resolution~~
 386 will not be effective until such area is designated pursuant to
 387 s. 290.0065.

388 (6) Any exemption authorized by a county under this section
 389 shall only apply to businesses located within the unincorporated
 390 portion of the county.

391 ~~(67)~~ This section expires on the date specified in s.
 392 290.016 for the expiration of the Florida Enterprise Zone Act;

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393 and a receipt may not be issued with the exemption authorized in
 394 this section for any period beginning on or after that date.

395 Section 14. Section 205.066, Florida Statutes, is amended
 396 to read:

397 205.066 Exemptions; employees.—

398 (1) An individual who engages in or manages a business,
 399 profession, or occupation as an employee of another person is
 400 not required to apply for an exemption from a local business
 401 tax, pay a local business tax, or obtain a local business tax
 402 receipt. An individual acting in the capacity of an independent
 403 contractor is not an employee.

404 (2) An employee may not be held liable by any local
 405 governing authority for the failure of a principal or employer
 406 to apply for an exemption from a local business tax, pay a local
 407 business tax, or obtain a local business tax receipt. An
 408 individual exempt under this section may not be required by any
 409 local governing authority to apply for an exemption from a local
 410 business tax, otherwise prove his or her exempt status, or pay
 411 any tax or fee related to a local business tax.

412 (3) A principal or employer who is required to obtain a
 413 local business tax receipt may not be required by a local
 414 governing authority to provide personal or contact information
 415 for individuals exempt under this section in order to obtain a
 416 local business tax receipt.

417 ~~(4) The exemption provided in this section does not apply~~
 418 ~~to a business tax imposed on individual employees by a~~
 419 ~~municipality or county pursuant to a resolution or ordinance~~
 420 ~~adopted before October 13, 2010. Municipalities or counties~~

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421 ~~that, before October 13, 2010, had a classification system that~~
 422 ~~was in compliance with the requirements of this chapter and that~~
 423 ~~actually resulted in individual employees paying a business tax~~
 424 ~~may continue to impose such a tax in that manner.~~

425 Section 15. It is declared to be the legislative intent to
 426 revise and simplify local business taxes in this state
 427 consistent with the provisions of this act effective October 1,
 428 2014. In order to transition to the new tax structure that will
 429 be in effect on October 1, 2014, counties and municipalities may
 430 continue levying local business taxes pursuant to the provisions
 431 of this chapter, until September 30, 2014. Local business taxes
 432 in effect on September 30, 2014 are not authorized beyond that
 433 date. Beginning October 1, 2014, all local business taxes must
 434 be approved and levied pursuant to, and in accordance with, the
 435 provisions of Chapter 205 as amended by this act, including the
 436 restrictions on classifications and rates provided for in ss.
 437 205.025 and 205.027, respectively and the requirement that
 438 ordinances authorizing local business taxes must be adopted by a
 439 two-thirds majority of the governing body of the county or
 440 municipality that chooses to continue levying local business
 441 taxes after September 30, 2014. Such ordinances may be adopted
 442 at any time after July 1, 2013 and scheduled to become effective
 443 beginning October 1, 2014.

444 Section 16. Notwithstanding the revisions to chapter 205,
 445 Florida Statutes, made by this act, counties or municipalities
 446 imposing a local business tax as of September 30, 2014, pursuant
 447 to chapter 205, Florida Statutes, may continue to levy such tax
 448 in the same manner and with the same rates and classifications

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449 as are in effect on March 1, 2013, to meet all obligations to or
 450 for the benefit of holders of bonds or certificates that were
 451 issued before March 1, 2013, and for which taxes levied pursuant
 452 to chapter 205, Florida Statutes, are expressly identified and
 453 pledged as security, separate from any other pledge of non-ad
 454 valorem revenues.

455 Section 17. Notwithstanding the revisions to chapter 205,
 456 Florida Statutes, made by this act, any county or municipality
 457 whose business tax receipts in its 2012-2013 fiscal year
 458 comprised at least 20 percent of the county's or municipality's
 459 total revenue derived from local taxes levied by the county or
 460 municipality in that fiscal year may continue to levy such tax
 461 in the same manner and with the same rates and classifications
 462 as are in effect on February 1, 2013, until September 30, 2018.
 463 However, any such county or municipality that chooses to
 464 continue to levy such tax may not increase its general county
 465 millage, general municipal millage, or any dependent special
 466 district millage above the level in effect for fiscal year 2013-
 467 2014 in any fiscal year through September 30, 2018, unless a
 468 majority of the electors of the qualifying county or qualifying
 469 municipality voting in a general or special election held not
 470 more than 12 months before the increased rate takes effect has
 471 approved the increased rate. As used in this section, the terms
 472 "general county millage," "general municipal millage," "and
 473 dependent special district millage" have the same meanings as in
 474 s. 200.001(1).

475 Section 18. This act shall take effect October 1, 2014,
 476 except sections 15, 16 and 17 which shall take effect July 1,

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477 | 2013.



Scouting Report on Professional Sports Facilities Tax Incentives

Finance & Tax Subcommittee
February 21, 2013



State Sales Tax Rebates

New/Retained Professional Sports Franchises

General Provisions (212.20(4)(d)6.b. and 288.1162, F.S.)

- Certification by Department of Economic Opportunity
- \$2 million per year
- Term of 30 years
- Limited to 8 certified facilities
- Used for acquisition, construction, reconstruction, or renovation of facility, or as pledge for debt



State Sales Tax Rebates

New/Retained Professional Sports Franchises

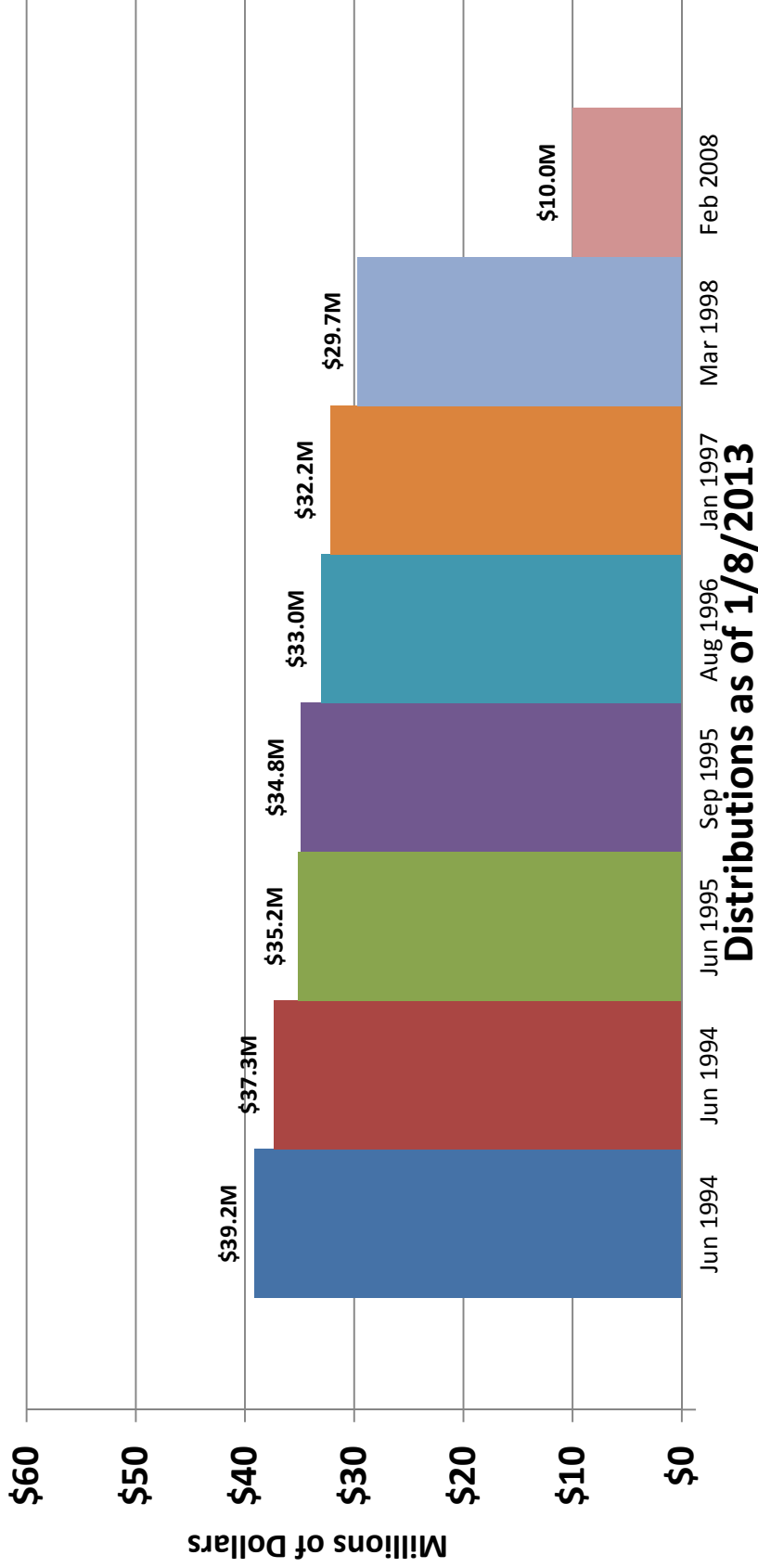
Certification Requirements

- Local government must construct, manage, or operate the facility, or own the land where facility is located
- Signed agreement for new franchise to use facility for at least 10 years, or retained franchise to use facility for at least 20 years
- League authorization from MLB, NBA, NFL, or NHL
- Verified projections of annual attendance of 300,000+
- Verified independent analysis projection sales tax revenues of \$2 million+
- Local government resolution certifying that application serves public purpose
- Applicant must demonstrate ability to pay for at least half of costs
- Applicant may not have been certified previously



State Sales Tax Rebates

New/Retained Professional Sports Franchises



■ Marlins*
 ■ Jaguars
 ■ Rays
 ■ Lightning
 ■ Panthers
 ■ Buccaneers
 ■ Heat
 ■ Magic



State Sales Tax Rebates

Spring Training Baseball Franchises

General Provisions (212.20(4)(d)6.b. and 288.11621, F.S.)

- Certification by Department of Economic Opportunity
- \$500,000 per year
- Term of 30 years
- Limited to 10 certified local governments/facilities
- Used for acquisition, construction, reconstruction, or renovation of facility, or as pledge for debt, or to assist relocation of a spring training franchise



State Sales Tax Rebates

Spring Training Baseball Franchises

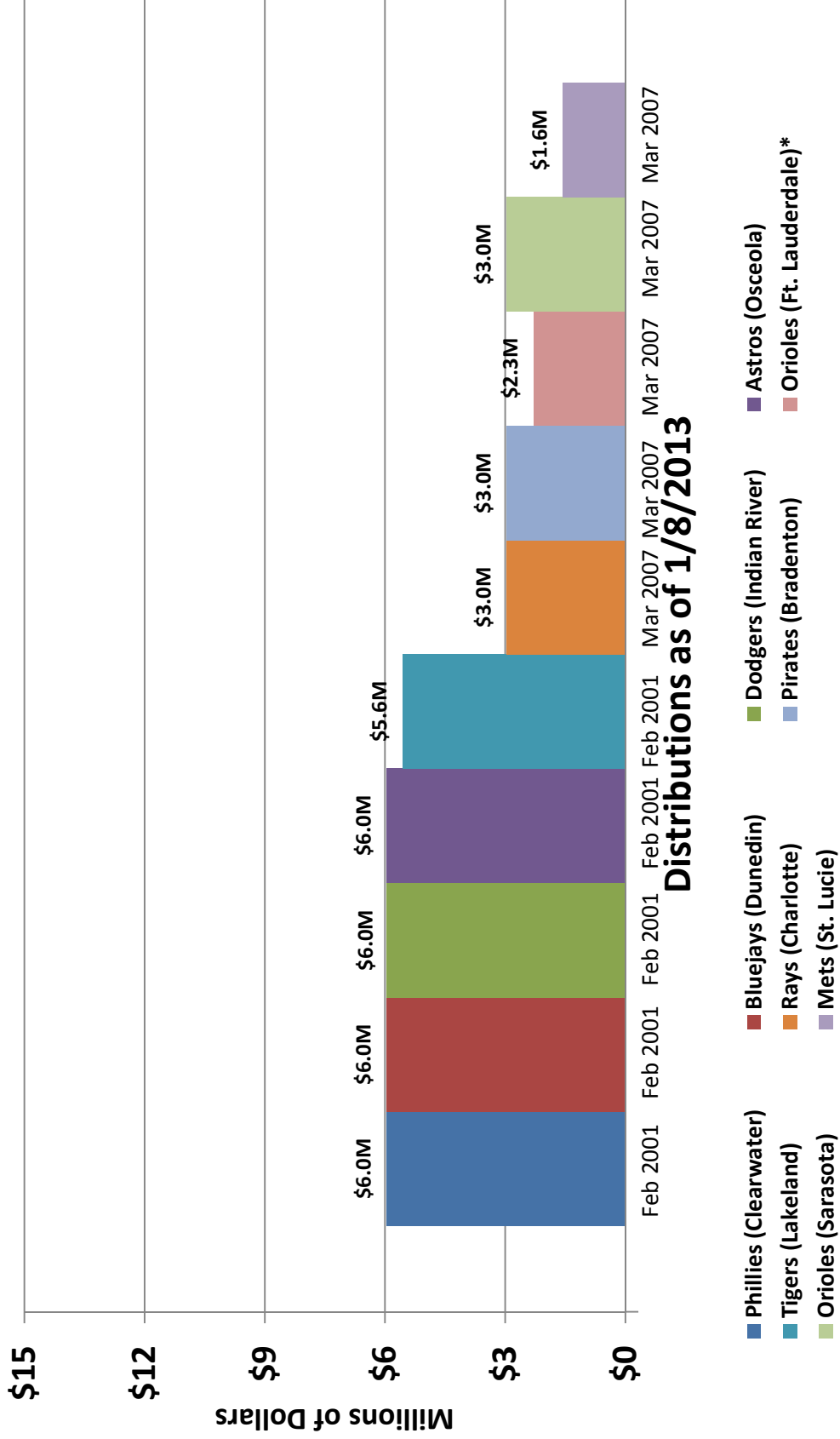
Certification Requirements

- Local government must construct, manage, or operate the facility, or own the land where facility is located
- Signed agreement for spring training franchise to use facility for at least 20 years
- Commitment from applicant to provide at least half of funds required for acquisition, construction, or renovation of facility
- Projected annual attendance of 50,000+
- Facility must be located in a county that levies a tourist development tax
- Department evaluates applications based on detailed criteria



State Sales Tax Rebates

Spring Training Baseball Franchises





Local Sales Tax Rebates

General Provisions (218.64(3), F.S.)

- Local government half-cent sales tax revenues
- Up to \$2 million per year
- Term of 30 years
- May be used for new/retained professional sports franchise, spring training baseball franchise, or motorsport entertainment complex (see below)
- Subject to certification and use provisions of 288.1162 and 288.11621 , except for limit on number of certified applicants and prohibition on applicants being funded more than once



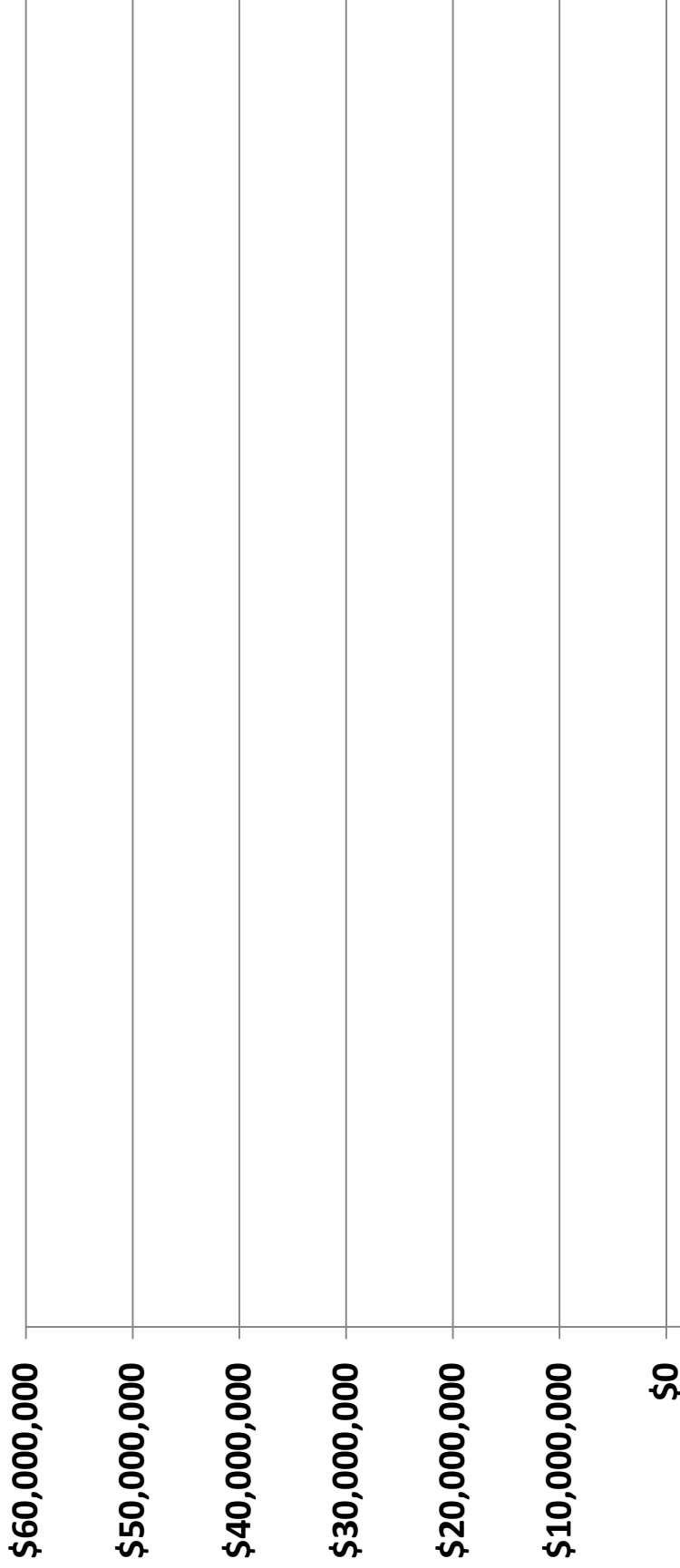
Local Sales Tax Rebates

Motorsport Entertainment Complex (288.1171, F.S.)

- Certification by Department of Economic Opportunity
- Local government must own the complex or the land hosting the complex
- Local government resolution certifying that application serves public purpose
- Complex may not be certified to receive funds more than once
- Funds may be used for construction, reconstruction, expansion, or renovation of facility; as pledge for debt; for construction of infrastructure improvements related to the facility; or to advertise the complex or the local government which hosts the complex



Local Sales Tax Rebates



Distributions as of 2/1/2013

■ All Recipients Combined



Local Option Taxes

Transient Rental Taxes

General Provisions

- Five tourist development and three convention development taxes available
- Levied by counties
- Levied on rental charges subject to the transient rentals tax, aka “bed tax” (6% state rate)
- Eligibility to levy each of them varies
- Max levies range from 4% to 7% depending on the county
- Purposes can range from broad (including sports facilities) to narrow (specific to sports facilities)

Tourist Development Tax

- **Rate:** 1% or 2%
- **Vote:** Majority
- **Eligibility:** All
- **Levied:** 62 levy of 67 eligible
- **Use:** Convention centers, sports stadiums/arenas, coliseums, auditoriums, aquariums, or museums, zoos, convention or tourist bureaus, or tourist information centers; to promote tourism; to fund beach, beach park, or inland lake or river improvement or restoration; or to serve as a pledge for debt to finance authorized facilities or beach improvement/restoration



Local Option Taxes

Transient Rental Taxes

Additional Tourist Development Tax

- **Rate:** 1%
- **Vote:** Supermajority or referendum
- **Eligibility:** Counties which have levied a tourist development tax for 3+ years
- **Levied:** 45 levy of 57 eligible
- **Use:** Same purposes as the tourist development tax, except to finance debt

High Tourism Impact Tax

- **Rate:** 1%
- **Vote:** Extraordinary
- **Eligibility:** Counties which have transient rentals of at least \$600 million annually, or at least \$200 million annually if such rentals made up at least 18% of the county's total taxable sales
- **Levied:** 3 levy of 5 eligible
- **Use:** Same purposes as the tourist development tax



Local Option Taxes

Transient Rental Taxes

Professional Sports Franchise Facility Tax

- **Rate:** Up to 1%
- **Vote:** Majority
- **Eligibility:** All
- **Levied:** 36 levy of 67 eligible
- **Use:** To pay debt service on bonds issued to pay for a professional sports franchise facility, retained spring training franchise, or convention center or to promote tourism

Additional Tourist Development Tax

- **Rate:** Up to 1%
- **Vote:** Majority plus 1
- **Eligibility:** Any county which has levied the professional sports franchise facility tax*
- **Levied:** 20 levy of 65 eligible
- **Use:** Same purposes as the professional sports franchise facility tax, except convention centers



Local Option Taxes

Transient Rental Taxes

Consolidated County Convention Tax

- **Rate:** 2%
- **Vote:** Majority
- **Eligibility:** Duval County
- **Levied:** 1 levies of 1 eligible
- **Use:** To promote tourism, or for convention centers, stadiums, exhibition halls, arenas, coliseums, or auditoriums

Charter County Convention Tax

- **Rate:** 3%
- **Vote:** Majority
- **Eligibility:** Miami-Dade County
- **Levied:** 1 levies of 1 eligible
- **Use:** Same purposes as the consolidated county convention tax with some restrictions, plus light rail

Special District Convention Tax

- **Rate:** Up to 3%
- **Vote:** Majority
- **Eligibility:** Volusia County
- **Levied:** 1 levies of 1 eligible
- **Use:** Same purposes as the consolidated county convention tax



Questions?