



Finance and Tax Subcommittee

Wednesday, February 19, 2014

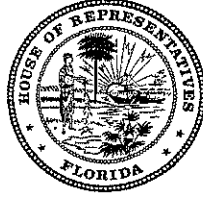
3:30 p.m. – 6:00 p.m.

Morris Hall

MEETING PACKET

The Florida House of Representatives

Finance and Tax Subcommittee



Will Weatherford
Speaker

Ritch Workman
Chair

AGENDA

February 19, 2014
3:30 p.m. – 6:00 p.m.
Morris Hall



- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. *Consideration of the following proposed committee bill(s):*
PCB FTSC 14-01 -- Relating to General Tax Administration

Consideration of the following bill(s):
HB 175 Emergency Communication System by Steube

CS/HB 343 Rental Car Surcharge by Transportation & Highway Safety Subcommittee,
Nuñez
- IV. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FTSC 14-01 Relating to General Tax Administration
SPONSOR(S): Finance & Tax Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Subcommittee		Wolfgang 	Langston 

SUMMARY ANALYSIS

This bill contains recommendations for general tax administration improvements, primarily consisting of legislative concepts submitted by the Department of Revenue (Department). The bill includes numerous statutory changes that may reduce the burden on taxpayers, reduce the Department's costs, increase efficiency in tax administration, and improve enforcement of tax laws.

This bill:

- Removes the requirement that the Department conduct in-depth reviews of the level of assessment for agricultural and other use-valued properties in its reviews of county assessment rolls.
- Revises the procedures local governments may use to authorize ad valorem exemptions for economic development.
- Clarifies that charges for the storage of towed vehicles resulting from a "lawful impoundment" by a law enforcement agency are not taxable.
- Clarifies and reorganizes the statutes pertaining to the application of current criminal penalties regarding any person who willfully fails to collect a tax or fee, who makes a false or fraudulent return with willful intent, or who engages in acts that require a certificate of registration and "fails or refuses" to register or willfully fails to register after the Department provides notice.
- Provides that the Department can require certain individuals and entities seeking to obtain a dealer's certificate of registration to post a cash deposit, bond, or other security if that business will be operated at an identical location of a previous business that would have been required to post such security. This requirement can be waived if absence of tax liability or an arms-length transfer of the business can be demonstrated.
- Clarifies a provision requiring the clerks of the court to transmit all court-related collections electronically by the 10th of the month immediately following the month in which the funds are collected to conform to a similar law changes made by the Legislature in 2010.
- Increases the authority of the Executive Director of the Department of Revenue to compromise tax assessed from \$250,000 up to \$500,000 when there is doubt as to liability or collectability.
- Provides definitions for "automated sales suppression device" or "zappers" and "phantom-ware", and criminalizes the knowing sale, purchase, installation, transfer, or possession of such software or software devices that can be used to falsify records of cash registers and other point-of-sale systems.
- Establishes a requirement for employers to comply with requests for all work records during an audit as prerequisite to earn a lower, unemployment tax contribution rate instead of the "standard rate" at 5.4%. The bills further standardizes the interest rate provisions for unemployment tax to make them the same rate as is applied to other taxes administered by the Department.

The Revenue Estimating Conference has determined that several provisions of the bill will have positive indeterminate impacts on state and local revenues. Also, the increase in compromise authority will have an indeterminate impact of unknown direction on state and local revenues. The change in interest rates applicable to late reemployment assistance tax remittances will have an insignificant impact on General Revenue and a -\$0.6 million impact on state trust funds in 2014-15 (-\$0.2 million recurring).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Section 1. Department Review of Assessment Classification

Present situation

Section 195.096, F.S., requires the department to conduct an in-depth review of the assessment rolls at least once every two years. This in-depth review may include proceedings of the value adjustment board and the audit or review of procedures used by the counties to appraise property. The Department must study individually the level of assessment in relation to just value for the following use-classes of property if they constitute at least 5 percent of the total assessed value of all real property in a county on the previous assessment roll:

- residential property that consists of one primary living unit;
- residential property that consists of two or more living units;
- agricultural and other use-valued property;
- vacant lots;
- undeveloped property; improved commercial and industrial property; and
- taxable institutional or governmental, utility, locally assessed railroad, oil, gas and mineral land, subsurface rights, and other real property.

Currently, there are 22 predominantly rural counties where classified use properties such as agricultural, historical, or high-water recharge properties are reviewed because of the five percent threshold.¹

Proposed change

This bill removes the agricultural and other use-valued (classified use) properties from the list of property classes that must be studied and reported separately if they constitute at least 5 percent of the total assessed value of all real property in a county.

Section 2. Motion or Resolution Authorizing Economic Development Ad Valorem Tax Exemption

Present situation

Section 196.1995, F.S., allows cities and counties to grant up to a 100 percent exemption from city or county ad valorem taxation for improvements to real property and tangible personal property for a new business. Initially, the city or county calls for a referendum within its total jurisdiction to determine whether the jurisdiction may grant economic development ad valorem exemptions under s. 3, Art. VII of the State Constitution. Once the referendum measure is approved, specific exemptions are effectuated by enactment of an ordinance. To qualify for the exemption, the improvements must be made or the tangible personal property added after the adoption of the ordinance. Businesses seeking to take advantage of the exemption must file a written application with the city or county in the year the exemption is desired to take effect to request the adoption of the ordinance and provide supporting information.

Proposed change

Real property improvements and tangible personal property could be exempted by a local government if purchased or added after receiving approval by a local motion or resolution but before the ordinance enacting the exemption. Section 14 of the bill states that an ordinance in existence prior to the effective date of this act will not be invalidated simply because the improvements to real property were made or the tangible personal property was added or increased prior to the day such ordinance was adopted as long as the local governing body acted substantially in accordance with the law as amended by the bill.

¹ Florida Department of Revenue, 2014 Legislative Concepts (11/19/2013).

Section 3. Storage of Towed Vehicles

Present situation

Section 212.03(6), F.S., provides that every person engaging in a lease or rental of parking or storage spaces for motor vehicles in parking lots or garages, who leases or rents docking or storage space for boats in boat docks or marinas, or who leases or rents tie-down or storage space for aircraft at airports, shall be taxed at the rate of 6 percent on the total rental charged. Current administration of this statute treats storage facilities for towed vehicles as "parking lots and garages" for purposes of application of the tax.

Proposed change

The bill explicitly states in statute that storage facilities for towed vehicles are included in "parking lots and garages" for purposes of applying the tax. The bill also adds s. 212.03(6)(b), F.S., stating that the storage of towed vehicles from a "lawful impoundment" by a law enforcement agency is not taxable. The bill further provides that "lawful impoundment" means the storing of or having custody over an aircraft, boat, or motor vehicle by, or at the direction of, a local, state, or federal law enforcement agency which the owner or the owner's representative is not authorized to enter upon, have access to, or remove without the consent of the law enforcement agency.

Section 4. Failure to Collect; Penalties

Present situation

Provisions in s. 212.07(1)(b), F.S., provide that a resale must be in strict compliance with s. 212.18, F.S., and the rules and regulations of the Department. A dealer who makes a sale for resale that is not in strict compliance with 212.18, F.S., shall himself or herself be liable for and pay the tax due. Dealer guidelines for sales for resale are established and supported by rules of the Department. Section 212.07(3), F.S., establishes that any dealer who fails, neglects, or refuses to collect the tax is guilty of a first degree misdemeanor.

Proposed change

This bill amends s. 212.07(3), F.S., to clarify that a dealer who willfully fails to collect a tax or fee after receiving notice from the Department is liable for the uncollected tax or fee and subject to criminal penalties that are graduated based on the number of offenses and amount of taxes or fees that go uncollected. This section also provides that the Department may contact the dealer in violation by personal service, registered mail, or both. This section will become effective upon becoming a law. This amended section is related to similar changes made in sections 5 & 7. This bill also corrects a cross reference in s. 212.07(1).

Section 5. False or Fraudulent Return; Penalties

Present situation

Provisions in s. 212.12, F.S., establish rules regarding a person (dealer) who makes false or fraudulent returns and/or fails to register as a dealer. The Department will contact a person by written notice with a "failure to register" letter followed, if needed, by an intentional failure to collect letter. The provisions cited under s. 775.082, s. 775.083, and s. 775.084, F.S., provide the civil and criminal penalties imposed upon these violators.

Proposed change

This bill amends s. 212.12(2)(d), F.S., to provide that a person who makes a false or fraudulent return with willful intent is liable for the uncollected taxes or fees and subject to criminal penalties that are graduated based on the number of offenses and amount of taxes or fees that go uncollected. This amended section is related to similar changes made in sections 4 & 7. This section will become effective upon becoming a law.

Section 6. Security Requirements for New Registrations

Present situation

Section 212.14(4), F.S., authorizes the Department, where necessary to ensure compliance with the Sales and Use Tax, to require a cash deposit, bond, or other security as a condition to a person obtaining or retaining a dealer's certificate of registration. Despite this requirement, some delinquent sales tax dealers are able to close down their businesses with outstanding tax liabilities and reopen under a new name, allowing the dealers to repeatedly fail to remit sales and use tax for successive businesses. Delinquent dealers can engage in this activity because the current provisions in s. 212.14(4), F.S., do not clearly apply to all of the individuals who were operating, or all who had an ownership interest in, the prior businesses.

Proposed change

This bill amends s. 212.14(4), F.S., to define which individuals or entities the Department can require to produce a cash deposit, bond, or other security. Included in this list of individuals and entities are not only those who had an ownership interest or a controlling interest in a business that would otherwise be liable for posting a cash deposit, bond, or other security, but those individuals and entities seeking to obtain a dealer's certificate of registration for a business that will be operated at an identical location of a previous business that would have otherwise been liable for posting a cash deposit, bond, or other security. These requirements can be waived if absence of tax liability or an arms-length transfer of the business can be demonstrated. The bill further allows the Department to adopt rules necessary to administer this subsection. The bill expressly authorizes the Department to adopt rules necessary to administer this subsection.

Section 7. Failure to Register; Penalties

Present situation

In s. 212.18(3), F.S., guidelines are provided for persons who want to engage in and conduct business within the state as a dealer. The Department also grants certificates of registration for each place of business. The failure or refusal of any person, firm, co-partnership, or corporation to follow these rules is a first degree misdemeanor and is subject to injunctive proceedings as provided by law.

Proposed change

This bill amends s. 212.18(3)(c), F.S., to clarify that any person that engages in acts that require a certificate of registration and "fails or refuses" to register, commits a misdemeanor of the first degree. This bill also adds s. 212.18(3)(c)2., F.S., to provide that a person who willfully fails to register after the Department provides notice, commits a felony of the third degree, punishable as proscribed in law. This section further provides that the Department shall give written notice of the duty to register to the person through registered mail, personal service or both. This section will become effective upon becoming a law. This amended section is related to similar changes made in sections 4 & 5.

Section 8. Republishes s. 212.20, F.S., which contains a reference to s. 212.18(3).

Section 9. Electronic Remittance and Distribution of Funds by the Clerk of Courts

Present situation

In 2010, the Legislature passed ch. 2010-162, L.O.F., that changed the remittance date for funds collected by the clerks of the court from the 20th to the 10th day of the month immediately following the month in which the funds are collected. A conforming provision in s. 213.13, F.S., regarding electronic remittance was not updated after the law change.

Proposed change

This bill amends s. 213.13(5), F.S., to require the clerks of the court to transmit all court-related collections electronically by the 10th of the month immediately following the month in which the funds are collected.

Section 10. Informal Conferences; Compromises

Present Situation

Section 213.13, F.S., allows the Executive Director of the Department of Revenue to enter into an agreement to accept less than the tax allegedly owed if there is a doubt as to liability or collectability of the tax assessed. The statute limits the Executive Director's compromise authority to reduce tax to no more than \$250,000.

Proposed Changes

The bill increases the Executive Director's compromise limit from \$250,000 to \$500,000.

Section 11. Automated Sales Suppression Devices or "Zappers"

Present situation

The Department has identified a practice of retailers using automated sales suppression software programs ("zappers") and/or "phantom-ware" to falsify the records of electronic cash registers and other point-of-sale systems. In effect, the technologies allow dealers to create a fraudulent, virtual second set of books by which the dealers are able to evade sales taxes.

Proposed change

The bill creates s. 213.295, F.S., defines zappers and phantom-ware, and criminalizes the knowing sale, purchase, installation, transfer, or possession of phantom-ware in this state. This section provides that any person in violation of this section shall be guilty of a felony of the third degree and shall be liable for all taxes, fees, penalties, and interest due to the state; the dealer shall also forfeit to the state all profits associated with the sale or use of the zappers or phantom-ware. Finally, the bill classifies zappers and phantom-ware as contraband articles under s. 932.701-932.706, F.S., the Florida Contraband Forfeiture Act. This section will become effective upon becoming a law.

Section 12. Standard Rate for Non-Compliance with Audit Record Requests; Reemployment Tax

Present situation

Florida law provides a standard reemployment tax rate, and allows many employers to earn a lower rate if they meet certain compliance conditions set forth in s. 443.131(3)(h), F.S. However, under the current requirements to meet the compliance standards, it does not explicitly state that the taxpayer must comply with records requests to qualify for the reduced tax rate pursuant to s. 443.171(5), F.S.

Proposed change

This bill amends s. 443.131, F.S., to require an employer to comply with records requests as a prerequisite for that employer to earn the lower, reemployment tax contribution rate. In order to receive the lower contribution rate, the employer must produce all work records requested during an audit by the DEO or the state agency providing tax collection services pursuant to s. 443.171(5), F.S. This section will become effective upon becoming a law.

Section 13. Floating Interest Rate; Reemployment Tax

Present situation

Section 443.141(1)(a), F.S., states that reemployment assistance tax contributions or reimbursements that are unpaid on the due date bear an interest rate of 1 percent per month (an effective rate of 12 percent annually). Other payment deficiencies on taxes that the Department administers have an interest rate of prime plus 4 percent but not to exceed an effective rate of 1 percent per month, adjusted twice per year.

Proposed change

This bill amends s. 443.141(1)(a), F.S., to adjust the interest rate applied to contributions or reimbursements unpaid on the date due. The current interest rate of 1 percent will carry on through December 31, 2013. Beginning January 1, 2014, the interest rate shall be calculated in accordance with s. 213.235, F.S., except that the rate of interest shall never be greater than 1 percent per month. This bill would reduce the interest rate provisions for reemployment tax and make them the same rate as is applied to other taxes administered by the Department. This section will become effective January 1, 2014.

Section 14.

Related to the provisions in section 2, the bill states that an ordinance in existence prior to the effective date of this act will not be invalidated simply because the improvements to real property were made or the tangible personal property was added or increased prior to the day such ordinance was adopted as long as the local governing body acted substantially in accordance with the law as amended by the bill.

Section 15. Effective Date

This act shall take effect upon becoming law, except as expressly provided within the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference met on January 17, 2014, and made the following estimates with respect to state revenues and trust funds:

- The provision relating to security requirements for sales tax dealers is expected to be zero or positive indeterminate.
- The standard reemployment tax rate for failure to provide records and criminalization of "zappers," and will have positive, indeterminate impacts on state general revenues and trust fund revenues.
- The provision relating to the Department's compromise authority will have an indeterminate impact of unknown direction on state general revenues and trust fund revenues.
- The provision relating to the interest rate on late reemployment tax remittances will have a negative insignificant general revenue impact in FY2014-2015 and a -\$0.6 million state trust fund impact (-\$0.2 million recurring).

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference met on January 17, 2014, and estimated if the Department ceases to review assessments for agricultural properties in counties that have 5% or more land classified as agricultural property for ad valorem purposes, there would be an indeterminate impact of unknown direction. The provision relating to security requirements for sales tax dealers is expected to be zero or a positive indeterminate. Criminalization of "zappers," will have positive, indeterminate impacts on local revenues. The provision relating to the Department's compromise authority will have an indeterminate impact of unknown direction on local revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce the interest paid by some taxpayers who remit their reemployment tax payments late.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants the Department of Revenue authority to adopt rules to administer their ability to require cash bonds from some sales tax dealers.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to tax administration; amending s. 195.096, F.S.; removing the requirement that the department review the level of assessment of use-valued properties in its reviews of county assessment rolls; amending s. 196.1995, F.S.; allowing real property improvements to qualify for certain ad valorem tax exemptions if such improvements are made after approval of a resolution by a local governing body and prior to adoption of an ordinance; amending s. 212.03, F.S.; providing that charges for the storage of towed vehicles that are impounded by a local, state, or federal law enforcement agency are not taxable; amending s. 212.07, F.S.; conforming a cross-reference to changes made by the act; providing monetary and criminal penalties for a dealer's willful failure to collect certain taxes or fees after receiving notice of such duty to collect from the Department of Revenue; amending s. 212.12, F.S.; deleting provisions relating to the imposition of criminal penalties after Department of Revenue notice of requirements to register as a dealer or to collect taxes; making technical and grammatical changes to provisions specifying penalties for making a false or fraudulent return with the intent to evade payment of

27 a tax or fee; amending s. 212.14, F.S.; modifying the
 28 definition of the term "person"; authorizing the
 29 department to adopt rules relating to requirements for
 30 a person to deposit cash, a bond, or other security
 31 with the department in order to ensure compliance with
 32 sales tax laws; making technical and grammatical
 33 changes; amending s. 212.18, F.S.; providing criminal
 34 penalties for a person who willfully fails to register
 35 as a dealer after receiving notice of such duty by the
 36 department; making technical and grammatical changes;
 37 reenacting s. 212.20, F.S., relating to the
 38 disposition of funds collected, to incorporate changes
 39 made by the act; amending s. 213.13, F.S.; revising
 40 the date for transmitting funds collected by the
 41 clerks of court to the department; amending s. 213.21,
 42 F.S.; increasing the compromise authority for closing
 43 agreements with taxpayers which can be delegated to
 44 and approved by the executive director; creating s.
 45 213.295, F.S., relating to automated sales suppression
 46 devices; defining terms; subjecting a person to
 47 criminal penalties and monetary penalties for
 48 knowingly selling or engaging in certain other actions
 49 involving a sales suppression device or phantom-ware;
 50 providing that sales suppression devices and phantom-
 51 ware are contraband articles under the Florida
 52 Contraband Forfeiture Act; amending s. 443.131, F.S.;

53 imposing a requirement on employers to produce records
 54 for the Department of Economic Opportunity or its tax
 55 collection service provider as a prerequisite for a
 56 reduction in the rate of reemployment tax; amending s.
 57 443.141, F.S.; providing a method to calculate the
 58 interest rate for past due employer contributions and
 59 reimbursements, and delinquent, erroneous, incomplete,
 60 or insufficient reports; increasing the number of days
 61 for an employer to protest an assessment; providing
 62 that local ordinances shall not be invalidated if
 63 enacted substantially in compliance with amendments
 64 made by this act; providing effective dates.

65
66

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

68

69 Section 1. Paragraph (a) of subsection (3) of section
 70 195.096, Florida Statutes, is amended to read:

71 195.096 Review of assessment rolls.—

72 (3) (a) Upon completing the reviews ~~completion of review~~
 73 pursuant to paragraph (2) (f), the department shall publish the
 74 results of reviews conducted under this section. The results
 75 must include all statistical and analytical measures computed
 76 under this section for the real property assessment roll as a
 77 whole, the personal property assessment roll as a whole, and
 78 independently for the following real property classes if the

79 classes constituted 5 percent or more of the total assessed
80 value of real property in a county on the previous tax roll:

81 1. Residential property that consists of one primary
82 living unit, including, but not limited to, single-family
83 residences, condominiums, cooperatives, and mobile homes.

84 2. Residential property that consists of two or more
85 primary living units.

86 ~~3. Agricultural, high-water recharge, historic property~~
87 ~~used for commercial or certain nonprofit purposes, and other~~
88 ~~use-valued property.~~

89 3.4. Vacant lots.

90 4.5. Nonagricultural acreage and other undeveloped
91 parcels.

92 5.6. Improved commercial and industrial property.

93 6.7. Taxable institutional or governmental, utility,
94 locally assessed railroad, oil, gas and mineral land, subsurface
95 rights, and other real property.

96
97 If one of the above classes constituted less than 5 percent of
98 the total assessed value of all real property in a county on the
99 previous assessment roll, the department may combine it with one
100 or more other classes of real property for purposes of
101 assessment ratio studies or use the weighted average of the
102 other classes for purposes of calculating the level of
103 assessment for all real property in a county. The department
104 shall also publish such results for any subclassifications of

105 the classes or assessment rolls it may have chosen to study.

106 Section 2. Subsection (5) of section 196.1995, Florida
 107 Statutes, is amended to read:

108 196.1995 Economic development ad valorem tax exemption.—

109 (5) Upon a majority vote in favor of such authority, the
 110 board of county commissioners or the governing authority of the
 111 municipality, at its discretion, by ordinance may exempt from ad
 112 valorem taxation up to 100 percent of the assessed value of all
 113 improvements to real property made by or for the use of a new
 114 business and of all tangible personal property of such new
 115 business, or up to 100 percent of the assessed value of all
 116 added improvements to real property made to facilitate the
 117 expansion of an existing business and of the net increase in all
 118 tangible personal property acquired to facilitate such expansion
 119 of an existing business, ~~provided that~~ To qualify for this
 120 exemption, the improvements to real property are must be made or
 121 the tangible personal property is must be added or increased
 122 after approval by motion or resolution of the local governing
 123 body, subject to ordinance adoption or on or after the day the
 124 ordinance is adopted. However, if the authority to grant
 125 exemptions is approved in a referendum in which the ballot
 126 question contained in subsection (3) appears on the ballot, the
 127 authority of the board of county commissioners or the governing
 128 authority of the municipality to grant exemptions is limited
 129 solely to new businesses and expansions of existing businesses
 130 that are located in an enterprise zone or brownfield area.

131 Property acquired to replace existing property shall not be
 132 considered to facilitate a business expansion. The exemption
 133 applies only to taxes levied by the respective unit of
 134 government granting the exemption. The exemption does not apply,
 135 however, to taxes levied for the payment of bonds or to taxes
 136 authorized by a vote of the electors pursuant to s. 9(b) or s.
 137 12, Art. VII of the State Constitution. Any such exemption shall
 138 remain in effect for up to 10 years with respect to any
 139 particular facility, regardless of any change in the authority
 140 of the county or municipality to grant such exemptions. The
 141 exemption shall not be prolonged or extended by granting
 142 exemptions from additional taxes or by virtue of any
 143 reorganization or sale of the business receiving the exemption.

144 Section 3. Subsection (6) of section 212.03, Florida
 145 Statutes, is amended to read:

146 212.03 Transient rentals tax; rate, procedure,
 147 enforcement, exemptions.—

148 (6) It is the legislative intent that every person is
 149 engaging in a taxable privilege who leases or rents parking or
 150 storage spaces for motor vehicles in parking lots or garages,
 151 including storage facilities for towed vehicles, who leases or
 152 rents docking or storage spaces for boats in boat docks or
 153 marinas, or who leases or rents tie-down or storage space for
 154 aircraft at airports.

155 (a) For the exercise of this privilege, a tax is hereby
 156 levied at the rate of 6 percent on the total rental charged.

157 (b) Charges for parking, docking, tie-down, or storage
 158 arising from a lawful impoundment are not taxable. As used in
 159 this paragraph, the term "lawful impoundment" means the storing
 160 of or having custody over an aircraft, boat, or motor vehicle
 161 by, or at the direction of, a local, state, or federal law
 162 enforcement agency which the owner or the owner's representative
 163 is not authorized to enter upon, have access to, or remove
 164 without the consent of the law enforcement agency.

165 Section 4. Effective July 1, 2014, paragraph (b) of
 166 subsection (1) and subsection (3) of section 212.07, Florida
 167 Statutes, are amended to read:

168 212.07 Sales, storage, use tax; tax added to purchase
 169 price; dealer not to absorb; liability of purchasers who cannot
 170 prove payment of the tax; penalties; general exemptions.—

171 (1)

172 (b) A resale must be in strict compliance with s. 212.18
 173 and the rules and regulations, and any dealer who makes a sale
 174 for resale which is not in strict compliance is with s. 212.18
 175 ~~and the rules and regulations shall himself or herself be liable~~
 176 ~~for and~~ must pay the tax. Any dealer who makes a sale for resale
 177 shall document the exempt nature of the transaction, as
 178 established by rules adopted ~~promulgated~~ by the department, by
 179 retaining a copy of the purchaser's resale certificate. In lieu
 180 of maintaining a copy of the certificate, a dealer may document,
 181 before ~~prior to~~ the time of sale, an authorization number
 182 provided telephonically or electronically by the department, or

183 by such other means established by rule of the department. The
 184 dealer may rely on a resale certificate issued pursuant to s.
 185 212.18(3)(d) ~~s. 212.18(3)(c)~~, valid at the time of receipt from
 186 the purchaser, without seeking annual verification of the resale
 187 certificate if the dealer makes recurring sales to a purchaser
 188 in the normal course of business on a continual basis. For
 189 purposes of this paragraph, "recurring sales to a purchaser in
 190 the normal course of business" refers to a sale in which the
 191 dealer extends credit to the purchaser and records the debt as
 192 an account receivable, or in which the dealer sells to a
 193 purchaser who has an established cash or C.O.D. account, similar
 194 to an open credit account. For purposes of this paragraph,
 195 purchases are made from a selling dealer on a continual basis if
 196 the selling dealer makes, in the normal course of business,
 197 sales to the purchaser at least ~~no less frequently than~~ once in
 198 every 12-month period. A dealer may, through the informal
 199 protest provided for in s. 213.21 and the rules of the
 200 department ~~of Revenue~~, provide the department with evidence of
 201 the exempt status of a sale. Consumer certificates of exemption
 202 executed by those exempt entities that were registered with the
 203 department at the time of sale, resale certificates provided by
 204 purchasers who were active dealers at the time of sale, and
 205 verification by the department of a purchaser's active dealer
 206 status at the time of sale in lieu of a resale certificate shall
 207 be accepted by the department when submitted during the protest
 208 period, but may not be accepted in any proceeding under chapter

209 120 or any circuit court action instituted under chapter 72.

210 (3) (a) A Any dealer who fails, neglects, or refuses to
 211 collect the tax or fees imposed under this chapter herein
 212 ~~provided,~~ either by himself or herself or through the dealer's
 213 agents or employees, ~~is,~~ in addition to the penalty of being
 214 liable for ~~and~~ paying the tax or fee himself or herself, commits
 215 ~~guilty of~~ a misdemeanor of the first degree, punishable as
 216 provided in s. 775.082 or s. 775.083.

217 (b) A dealer who willfully fails to collect a tax or fee
 218 after the department provides notice of the duty to collect the
 219 tax or fee is liable for a specific penalty of 100 percent of
 220 the uncollected tax or fee. This penalty is in addition to any
 221 other penalty that may be imposed by law. A dealer who willfully
 222 fails to collect taxes or fees totaling:

223 1. Less than \$300:

224 a. For a first offense, commits a misdemeanor of the
 225 second degree, punishable as provided in s. 775.082 or s.
 226 775.083.

227 b. For a second offense, commits a misdemeanor of the
 228 first degree, punishable as provided in s. 775.082 or s.
 229 775.083.

230 c. For a third or subsequent offense, commits a felony of
 231 the third degree, punishable as provided in s. 775.082, s.
 232 775.083, or s. 775.084.

233 2. An amount equal to \$300 or more, but less than \$20,000,
 234 commits a felony of the third degree, punishable as provided in

235 s. 775.082, s. 775.083, or s. 775.084.

236 3. An amount equal to \$20,000 or more, but less than
 237 \$100,000, commits a felony of the second degree, punishable as
 238 provided in s. 775.082, s. 775.083, or s. 775.084.

239 4. An amount equal to \$100,000 or more, commits a felony
 240 of the first degree, punishable as provided in s. 775.082, s.
 241 775.083, or s. 775.084.

242 (c) The department shall give written notice of the duty
 243 to collect taxes or fees to the dealer by personal service, by
 244 sending notice to the dealer's last known address by registered
 245 mail, or both.

246 Section 5. effective July 1, 2014, paragraph (d) of
 247 subsection (2) of section 212.12, Florida Statutes, is amended
 248 to read:

249 212.12 Dealer's credit for collecting tax; penalties for
 250 noncompliance; powers of Department of Revenue in dealing with
 251 delinquents; brackets applicable to taxable transactions;
 252 records required.—

253 (2)

254 (d) A ~~Any~~ person who makes a false or fraudulent return
 255 and who has ~~with~~ a willful intent to evade payment of any tax or
 256 fee imposed under this chapter is, ~~any person who, after the~~
 257 ~~department's delivery of a written notice to the person's last~~
 258 ~~known address specifically alerting the person of the~~
 259 ~~requirement to register the person's business as a dealer,~~
 260 ~~intentionally fails to register the business; and any person~~

261 ~~who, after the department's delivery of a written notice to the~~
 262 ~~person's last known address specifically alerting the person of~~
 263 ~~the requirement to collect tax on specific transactions,~~
 264 ~~intentionally fails to collect such tax, shall, in addition to~~
 265 ~~the other penalties provided by law, be liable for a specific~~
 266 ~~penalty of 100 percent of any unreported or any uncollected tax~~
 267 ~~or fee. This penalty is in addition to any other penalty~~
 268 provided by law. A person who makes a false or fraudulent return
 269 with a willful intent to evade payment of taxes or fees
 270 totaling:

- 271 1. Less than \$300:
 - 272 a. For a first offense, commits a misdemeanor of the
 - 273 second degree, punishable as provided in s. 775.082 or s.
 - 274 775.083.
 - 275 b. For a second offense, commits a misdemeanor of the
 - 276 first degree, punishable as provided in s. 775.082 or s.
 - 277 775.083.
 - 278 c. For a third or subsequent offense, commits a felony of
 - 279 the third degree, punishable as provided in s. 775.082, s.
 - 280 775.083, or s. 775.084.
- 281 2. An amount equal to \$300 or more, but less than \$20,000,
- 282 commits a felony of the third degree, punishable as provided in
- 283 s. 775.082, s. 775.083, or s. 775.084.
- 284 3. An amount equal to \$20,000 or more, but less than
- 285 \$100,000, commits a felony of the second degree, punishable as
- 286 provided in s. 775.082, s. 775.083, or s. 775.084.

287 4. An amount equal to \$100,000 or more, commits a felony
 288 of the first degree, punishable and, upon conviction, for fine
 289 and punishment as provided in s. 775.082, s. 775.083, or s.
 290 775.084. Delivery of written notice may be made by certified
 291 mail, or by the use of such other method as is documented as
 292 being necessary and reasonable under the circumstances. The
 293 civil and criminal penalties imposed herein for failure to
 294 comply with a written notice alerting the person of the
 295 requirement to register the person's business as a dealer or to
 296 collect tax on specific transactions shall not apply if the
 297 person timely files a written challenge to such notice in
 298 accordance with procedures established by the department by rule
 299 or the notice fails to clearly advise that failure to comply
 300 with or timely challenge the notice will result in the
 301 imposition of the civil and criminal penalties imposed herein.

302 ~~1. If the total amount of unreported or uncollected taxes~~
 303 ~~or fees is less than \$300, the first offense resulting in~~
 304 ~~conviction is a misdemeanor of the second degree, the second~~
 305 ~~offense resulting in conviction is a misdemeanor of the first~~
 306 ~~degree, and the third and all subsequent offenses resulting in~~
 307 ~~conviction is a misdemeanor of the first degree, and the third~~
 308 ~~and all subsequent offenses resulting in conviction are felonies~~
 309 ~~of the third degree.~~

310 ~~2. If the total amount of unreported or uncollected taxes~~
 311 ~~or fees is \$300 or more but less than \$20,000, the offense is a~~
 312 ~~felony of the third degree.~~

313 ~~3. If the total amount of unreported or uncollected taxes~~
 314 ~~or fees is \$20,000 or more but less than \$100,000, the offense~~
 315 ~~is a felony of the second degree.~~

316 ~~4. If the total amount of unreported or uncollected taxes~~
 317 ~~or fees is \$100,000 or more, the offense is a felony of the~~
 318 ~~first degree.~~

319 Section 6. Effective July 1, 2014, subsection (4) of
 320 section 212.14, Florida Statutes, is amended to read:

321 212.14 Departmental powers; hearings; distress warrants;
 322 bonds; subpoenas and subpoenas duces tecum.—

323 (4) In all cases where it is necessary to ensure
 324 compliance with ~~the provisions of~~ this chapter, the department
 325 shall require a cash deposit, bond, or other security as a
 326 condition to a person obtaining or retaining a dealer's
 327 certificate of registration under this chapter. Such bond must
 328 ~~shall~~ be in the form and ~~such~~ amount ~~as~~ the department deems
 329 appropriate under the particular circumstances. A ~~Every~~ person
 330 failing to produce such cash deposit, bond, or other security is
 331 ~~as provided for herein shall~~ not be entitled to obtain or retain
 332 a dealer's certificate of registration under this chapter, and
 333 the Department of Legal Affairs is hereby authorized to proceed
 334 by injunction, if ~~when so~~ requested by the Department of
 335 Revenue, to prevent such person from doing business subject to
 336 ~~the provisions of~~ this chapter until such cash deposit, bond, or
 337 other security is posted with the department, and any temporary
 338 injunction for this purpose may be granted by any judge or

339 chancellor authorized by law to grant injunctions. Any security
 340 required to be deposited may be sold by the department at public
 341 sale if ~~it becomes necessary so to do~~ in order to recover any
 342 tax, interest, or penalty due. Notice of such sale may be served
 343 personally or by mail upon the person who deposited the such
 344 security. If by mail, notice sent to the last known address as
 345 ~~it the same~~ appears on the records of the department ~~is shall be~~
 346 sufficient for the purpose of this requirement. Upon such sale,
 347 the surplus, if any, above the amount due under this chapter
 348 shall be returned to the person who deposited the security. The
 349 department may adopt rules necessary to administer this
 350 subsection. For the purpose of the cash deposit, bond, or other
 351 security required by this subsection, the term "person" includes
 352 those entities defined in s. 212.02(12), as well as:

353 (a) An individual or entity owning a controlling interest
 354 in a business;

355 (b) An individual or entity that acquired an ownership
 356 interest or a controlling interest in a business that would
 357 otherwise be liable for posting a cash deposit, bond, or other
 358 security, unless the department has determined that the
 359 individual or entity is not liable for the taxes, interest, or
 360 penalties described in s. 213.758; or

361 (c) An individual or entity seeking to obtain a dealer's
 362 certificate of registration for a business that will be operated
 363 at the same location as a previous business that would otherwise
 364 have been liable for posting a cash deposit, bond, or other

365 security, if the individual or entity fails to provide evidence
 366 that the business was acquired for consideration in an arms-
 367 length transaction.

368 Section 7. Effective July 1, 2014, subsection (3) of
 369 section 212.18, Florida Statutes, is amended to read:

370 212.18 Administration of law; registration of dealers;
 371 rules.—

372 (3) (a) A ~~Every~~ person desiring to engage in or conduct
 373 business in this state as a dealer, ~~as defined in this chapter,~~
 374 or to lease, rent, or let or grant licenses in living quarters
 375 or sleeping or housekeeping accommodations in hotels, apartment
 376 houses, roominghouses, or tourist or trailer camps that are
 377 subject to tax under s. 212.03, or to lease, rent, or let or
 378 grant licenses in real property, ~~as defined in this chapter,~~ and
 379 a every person who sells or receives anything of value by way of
 380 admissions, must file with the department an application for a
 381 certificate of registration for each place of business. The
 382 application must include, ~~showing~~ the names of the persons who
 383 have interests in such business and their residences, the
 384 address of the business, and ~~such~~ other data reasonably required
 385 by ~~as~~ the department ~~may reasonably require~~. However, owners and
 386 operators of vending machines or newspaper rack machines are
 387 required to obtain only one certificate of registration for each
 388 county in which such machines are located. The department, by
 389 rule, may authorize a dealer that uses independent sellers to
 390 sell its merchandise to remit tax on the retail sales price

391 charged to the ultimate consumer in lieu of having the
 392 independent seller register as a dealer and remit the tax. The
 393 department may appoint the county tax collector as the
 394 department's agent to accept applications for registrations. The
 395 application must be submitted ~~made~~ to the department before the
 396 person, firm, copartnership, or corporation may engage in such
 397 business, and it must be accompanied by a registration fee of
 398 \$5. However, a registration fee is not required to accompany an
 399 application to engage in or conduct business to make mail order
 400 sales. The department may waive the registration fee for
 401 applications submitted through the department's Internet
 402 registration process.

403 (b) The department, upon receipt of such application,
 404 shall ~~will~~ grant to the applicant a separate certificate of
 405 registration for each place of business, which certificate may
 406 be canceled by the department or its designated assistants for
 407 any failure by the certificateholder to comply with ~~any of the~~
 408 ~~provisions of~~ this chapter. The certificate is not assignable
 409 and is valid only for the person, firm, copartnership, or
 410 corporation to which issued. The certificate must be placed in a
 411 conspicuous place in the business or businesses for which it is
 412 issued and must be displayed at all times. Except as provided in
 413 this subsection, a ~~no~~ person may not ~~shall~~ engage in business as
 414 a dealer or in leasing, renting, or letting of or granting
 415 licenses in living quarters or sleeping or housekeeping
 416 accommodations in hotels, apartment houses, roominghouses,

417 tourist or trailer camps, or real property, or as hereinbefore
 418 ~~defined, nor shall any person~~ sell or receive anything of value
 419 by way of admissions, without a valid ~~first having obtained such~~
 420 a certificate. A ~~or after such certificate has been canceled, no~~
 421 person may not ~~shall~~ receive a any license from any authority
 422 within the state to engage in any such business without a valid
 423 certificate ~~first having obtained such a certificate or after~~
 424 ~~such certificate has been canceled. A person may not engage~~ The
 425 engaging in the business of selling or leasing tangible personal
 426 property or services ~~or as a dealer; engage, as defined in this~~
 427 ~~chapter, or the engaging in leasing, renting, or letting of or~~
 428 granting licenses in living quarters or sleeping or housekeeping
 429 accommodations in hotels, apartment houses, roominghouses, or
 430 tourist or trailer camps that are taxable under this chapter, or
 431 real property;⁷ or engage ~~the engaging~~ in the business of
 432 selling or receiving anything of value by way of admissions,
 433 without a valid ~~such certificate first being obtained or after~~
 434 ~~such certificate has been canceled by the department, is~~
 435 prohibited.

436 (c)1. A ~~The failure or refusal of any person who engages~~
 437 in acts requiring a certificate of registration under this
 438 subsection and who fails or refuses to register commits, firm,
 439 copartnership, or corporation to so qualify when required
 440 ~~hereunder is~~ a misdemeanor of the first degree, punishable as
 441 provided in s. 775.082 or s. 775.083. Such acts are, or subject
 442 to injunctive proceedings as provided by law. A person who

443 engages in acts requiring a certificate of registration and who
 444 fails or refuses to register is also subject ~~Such failure or~~
 445 ~~refusal also subjects the offender~~ to a \$100 initial
 446 registration fee in lieu of the \$5 registration fee required by
 447 ~~authorized in~~ paragraph (a). However, the department may waive
 448 the increase in the registration fee if it finds is determined
 449 ~~by the department~~ that the failure to register was due to
 450 reasonable cause and not to willful negligence, willful neglect,
 451 or fraud.

452 2.a. A person who willfully fails to register after the
 453 department provides notice of the duty to register as a dealer
 454 commits a felony of the third degree, punishable as provided in
 455 s. 775.082, s. 775.083, or s. 775.084.

456 b. The department shall provide written notice of the duty
 457 to register to the person by personal service, by sending notice
 458 by registered mail to the person's last known address, or both.

459 ~~(d)-(e)~~ In addition to the certificate of registration, the
 460 department shall provide to each newly registered dealer an
 461 initial resale certificate that will be valid for the remainder
 462 of the period of issuance. The department shall provide each
 463 active dealer with an annual resale certificate. For purposes of
 464 this section, the term "active dealer" means a person who is
 465 currently registered with the department and who is required to
 466 file at least once during each applicable reporting period.

467 ~~(e)-(d)~~ The department may revoke a any dealer's
 468 certificate of registration if when the dealer fails to comply

469 with this chapter. Before ~~Prior~~ to revocation of a dealer's
 470 certificate of registration, the department must schedule an
 471 informal conference at which the dealer may present evidence
 472 regarding the department's intended revocation or enter into a
 473 compliance agreement with the department. The department must
 474 notify the dealer of its intended action and the time, place,
 475 and date of the scheduled informal conference by written
 476 notification sent by United States mail to the dealer's last
 477 known address of record furnished by the dealer on a form
 478 prescribed by the department. The dealer is required to attend
 479 the informal conference and present evidence refuting the
 480 department's intended revocation or enter into a compliance
 481 agreement with the department which resolves the dealer's
 482 failure to comply with this chapter. The department shall issue
 483 an administrative complaint under s. 120.60 if the dealer fails
 484 to attend the department's informal conference, fails to enter
 485 into a compliance agreement with the department resolving the
 486 dealer's noncompliance with this chapter, or fails to comply
 487 with the executed compliance agreement.

488 (f) ~~(e)~~ As used in this paragraph, the term "exhibitor"
 489 means a person who enters into an agreement authorizing the
 490 display of tangible personal property or services at a
 491 convention or a trade show. The following provisions apply to
 492 the registration of exhibitors as dealers under this chapter:

- 493 1. An exhibitor whose agreement prohibits the sale of
- 494 tangible personal property or services subject to the tax

495 imposed in this chapter is not required to register as a dealer.

496 2. An exhibitor whose agreement provides for the sale at
 497 wholesale only of tangible personal property or services subject
 498 to the tax imposed under ~~in~~ this chapter must obtain a resale
 499 certificate from the purchasing dealer but is not required to
 500 register as a dealer.

501 3. An exhibitor whose agreement authorizes the retail sale
 502 of tangible personal property or services subject to the tax
 503 imposed under ~~in~~ this chapter must register as a dealer and
 504 collect the tax ~~imposed under this chapter~~ on such sales.

505 4. An ~~Any~~ exhibitor who makes a mail order sale pursuant
 506 to s. 212.0596 must register as a dealer.

507
 508 A ~~Any~~ person who conducts a convention or a trade show must make
 509 his or her ~~their~~ exhibitor's agreements available to the
 510 department for inspection and copying.

511 Section 8. Effective July 1, 2014, for the purpose of
 512 incorporating the amendment made by this act to subsection (3)
 513 of section 212.18, Florida Statutes, in a reference thereto,
 514 paragraph (c) of subsection (6) of section 212.20, Florida
 515 Statutes, is reenacted to read:

516 212.20 Funds collected, disposition; additional powers of
 517 department; operational expense; refund of taxes adjudicated
 518 unconstitutionally collected.—

519 (6) Distribution of all proceeds under this chapter and s.
 520 202.18(1)(b) and (2)(b) shall be as follows:

521 (c) Proceeds from the fees imposed under ss.
 522 212.05(1)(h)3. and 212.18(3) shall remain with the General
 523 Revenue Fund.

524 Section 9. Subsection (5) of section 213.13, Florida
 525 Statutes, is amended to read:

526 213.13 Electronic remittance and distribution of funds
 527 collected by clerks of the court.—

528 (5) All court-related collections, including fees, fines,
 529 reimbursements, court costs, and other court-related funds that
 530 the clerks must remit to the state pursuant to law, must be
 531 transmitted electronically by the 10th ~~20th~~ day of the month
 532 immediately following the month in which the funds are
 533 collected.

534 Section 10. Paragraph (a) of subsection (2) of section
 535 213.21, Florida Statutes, is amended to read:

536 213.21 Informal conferences; compromises.—

537 (2)(a) The executive director of the department or his or
 538 her designee is authorized to enter into closing agreements with
 539 any taxpayer settling or compromising the taxpayer's liability
 540 for any tax, interest, or penalty assessed under any of the
 541 chapters specified in s. 72.011(1). Such agreements must ~~shall~~
 542 be in writing if ~~when~~ the amount of tax, penalty, or interest
 543 compromised exceeds \$30,000, or for lesser amounts, if ~~when~~ the
 544 department deems it appropriate or if ~~when~~ requested by the
 545 taxpayer. When a written closing agreement has been approved by
 546 the department and signed by the executive director or his or

547 her designee and the taxpayer, it shall be final and conclusive;
 548 and, except upon a showing of fraud or misrepresentation of
 549 material fact or except as to adjustments pursuant to ss. 198.16
 550 and 220.23, no additional assessment may be made by the
 551 department against the taxpayer for the tax, interest, or
 552 penalty specified in the closing agreement for the time period
 553 specified in the closing agreement, and the taxpayer is ~~shall~~
 554 not be entitled to institute any judicial or administrative
 555 proceeding to recover any tax, interest, or penalty paid
 556 pursuant to the closing agreement. The department is authorized
 557 to delegate to the executive director the authority to approve
 558 any such closing agreement resulting in a tax reduction of
 559 \$500,000 ~~\$250,000~~ or less.

560 Section 11. Effective July 1, 2014, section 213.295,
 561 Florida Statutes, is created to read:

562 213.295 Automated sales suppression devices.—

563 (1) As used in this section, the term:

564 (a) "Automated sales suppression device" or "zapper" means
 565 a software program that falsifies the electronic records of
 566 electronic cash registers or other point-of-sale systems,
 567 including, but not limited to, transaction data and transaction
 568 reports. The term includes the software program, any device that
 569 carries the software program, or an Internet link to the
 570 software program.

571 (b) "Electronic cash register" means a device that keeps a
 572 register or supporting documents through the use of an

573 electronic device or computer system designed to record
 574 transaction data for the purpose of computing, compiling, or
 575 processing retail sales transaction data in whatever manner.

576 (c) "Phantom-ware" means a hidden programming option
 577 embedded in the operating system of an electronic cash register
 578 or hardwired into the electronic cash register which may be used
 579 to create a second set of records or eliminate or manipulate
 580 transaction records, which may or may not be preserved in
 581 digital formats, to represent the true or manipulated record of
 582 transactions in the electronic cash register.

583 (d) "Transaction data" includes the identification of
 584 items purchased by a customer; the price for each item; a
 585 taxability determination for each item; a segregated tax amount
 586 for each of the taxed items; the amount of cash or credit
 587 tendered; the net amount returned to the customer in change; the
 588 date and time of the purchase; the name, address, and
 589 identification number of the vendor; and the receipt or invoice
 590 number of the transaction.

591 (e) "Transaction report" means a report that documents,
 592 but is not limited to documenting, the sales, taxes, or fees
 593 collected, media totals, and discount voids at an electronic
 594 cash register and is printed on a cash register tape at the end
 595 of a day or a shift, or a report that documents every action at
 596 an electronic cash register and is stored electronically.

597 (2) A person may not knowingly sell, purchase, install,
 598 transfer, possess, use, or access an automated sales suppression

599 device, a zapper, or phantom-ware.

600 (3) A person who violates this section:

601 (a) Commits a felony of the third degree, punishable as
 602 provided in s. 775.082, s. 775.083, or s. 775.084.

603 (b) Is liable for all taxes, fees, penalties, and interest
 604 due the state which result from the use of an automated sales
 605 suppression device, a zapper, or phantom-ware and shall forfeit
 606 to the state as an additional penalty all profits associated
 607 with the sale or use of an automated sales suppression device, a
 608 zapper, or phantom-ware.

609 (4) An automated sales suppression device, a zapper,
 610 phantom-ware, or any device containing such device or software
 611 is a contraband article under ss. 932.701-932.706, the Florida
 612 Contraband Forfeiture Act.

613 Section 12. Paragraph (h) of subsection (3) of section
 614 443.131, Florida Statutes, is amended to read:

615 443.131 Contributions.—

616 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
 617 EXPERIENCE.—

618 (h) *Additional conditions for variation from the standard*
 619 *rate.*—An employer's contribution rate may not be reduced below
 620 the standard rate under this section unless:

621 1. All contributions, reimbursements, interest, and
 622 penalties incurred by the employer for wages paid by him or her
 623 in all previous calendar quarters, except the 4 calendar
 624 quarters immediately preceding the calendar quarter or calendar

625 year for which the benefit ratio is computed, are paid; and
 626 2. The employer has produced for inspection and copying
 627 all work records in his or her possession, custody, or control
 628 which were requested by the Department of Economic Opportunity
 629 or its tax collection service provider pursuant to s.
 630 443.171(5). An employer shall have at least 60 days to provide
 631 the requested work records before the employer is assigned the
 632 standard rate; and

633 3.2- The employer entitled to a rate reduction must have
 634 at least one annual payroll as defined in subparagraph (b)1.
 635 unless the employer is eligible for additional credit under the
 636 Federal Unemployment Tax Act. If the Federal Unemployment Tax
 637 Act is amended or repealed in a manner affecting credit under
 638 the federal act, this section applies only to the extent that
 639 additional credit is allowed against the payment of the tax
 640 imposed by the ~~Federal Unemployment Tax~~ act.

641
 642 The tax collection service provider shall assign an earned
 643 contribution rate to an employer for ~~under subparagraph 1.~~ the
 644 quarter immediately after the quarter in which all
 645 contributions, reimbursements, interest, and penalties are paid
 646 in full and all work records requested pursuant to s. 443.171(5)
 647 have been produced for inspection and copying by the Department
 648 of Economic Opportunity or the tax collection service provider.

649 Section 13. Effective January 1, 2015, paragraph (a) of
 650 subsection (1) and paragraph (b) of subsection (2) of section

651 443.141, Florida Statutes, are amended to read:

652 443.141 Collection of contributions and reimbursements.—

653 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,
654 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

655 (a) *Interest*.—Contributions or reimbursements unpaid on
656 the date due bear interest at the rate of 1 percent per month
657 through December 31, 2014. Beginning January 1, 2015, the
658 interest rate shall be calculated in accordance with s. 213.235,
659 except that the rate of interest may not exceed 1 percent per
660 month from and after the ~~that~~ date due until payment plus
661 accrued interest is received by the tax collection service
662 provider, unless the service provider finds that the employing
663 unit has good reason for failing to pay the contributions or
664 reimbursements when due. Interest collected under this
665 subsection must be paid into the Special Employment Security
666 Administration Trust Fund.

667 (2) REPORTS, CONTRIBUTIONS, APPEALS.—

668 (b) *Hearings*.—The determination and assessment are final
669 20 ~~15~~ days after the date the assessment is mailed unless the
670 employer files with the tax collection service provider within
671 the 20 ~~15~~ days a written protest and petition for hearing
672 specifying the objections ~~thereto~~. The tax collection service
673 provider shall promptly review each petition and may reconsider
674 its determination and assessment in order to resolve the
675 petitioner's objections. The tax collection service provider
676 shall forward each unresolved petition ~~remaining unresolved~~ to

677 the department for a hearing on the objections. Upon receipt of
 678 a petition, the department shall schedule a hearing and notify
 679 the petitioner of the time and place of the hearing. The
 680 department may appoint special deputies to conduct hearings who
 681 shall ~~and to~~ submit their findings together with a transcript of
 682 the proceedings before them and their recommendations to the
 683 department for its final order. Special deputies are subject to
 684 the prohibition against ex parte communications in s. 120.66. At
 685 any hearing conducted by the department or its special deputy,
 686 evidence may be offered to support the determination and
 687 assessment or to prove it is incorrect. In order to prevail,
 688 however, the petitioner must ~~either~~ prove that the determination
 689 and assessment are incorrect or file full and complete corrected
 690 reports. Evidence may also be submitted ~~at the hearing~~ to rebut
 691 the determination by the tax collection service provider that
 692 the petitioner is an employer under this chapter. Upon evidence
 693 taken before it or upon the transcript submitted to it with the
 694 findings and recommendation of its special deputy, the
 695 department shall ~~either~~ set aside the tax collection service
 696 provider's determination that the petitioner is an employer
 697 under this chapter or reaffirm the determination. The amounts
 698 assessed under the final order, together with interest and
 699 penalties, must be paid within 15 days after notice of the final
 700 order is mailed to the employer, unless judicial review is
 701 instituted in a case of status determination. Amounts due when
 702 the status of the employer is in dispute are payable within 15

703 days after the entry of an order by the court affirming the
 704 determination. However, a any determination that an employing
 705 unit is not an employer under this chapter does not affect the
 706 benefit rights of an any individual as determined by an appeals
 707 referee or the commission unless:

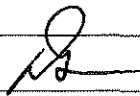
- 708 1. The individual is made a party to the proceedings
 709 before the special deputy; or
- 710 2. The decision of the appeals referee or the commission
 711 has not become final or the employing unit and the department
 712 were not made parties to the proceedings before the appeals
 713 referee or the commission.

714 Section 14. Any local ordinance enacted pursuant to s.
 715 196.1995, prior to effective date of this act, shall not be
 716 invalidated on the ground that improvements to real property
 717 were made or the tangible personal property was added or
 718 increased prior to the day such ordinance was adopted, as long
 719 as the local governing body acted substantially in accordance
 720 with s. 196.1995(5) as hereby amended.

721 Section 15. Except as otherwise expressly provided in this
 722 act, this act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 175 Emergency Communication System
SPONSOR(S): Steube
TIED BILLS: HB 177 **IDEN./SIM. BILLS:** SB 294

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	13 Y, 1 N	Whittier	Keating
2) Finance & Tax Subcommittee		Flieger <i>BF</i>	Langston 
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

Under current law, the Emergency Communications Number E911 Act establishes a statewide E911 system for wireless telephone users. To fund the E911 system, the act imposes a monthly fee, capped at \$0.50, on voice communications services. This fee funds costs incurred by local governments to install and operate 911 systems and reimburses wireless providers for costs incurred to provide 911 or E911 services. Voice communications services providers are required to collect the E911 fee from the subscribers of voice communications services on a service identifier basis. The fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service, such as Voice over Internet Protocol. Since July 1, 2013, state law has required collection of the fee from the sale of prepaid wireless service, though no specific mechanism is provided for collection of the fee on this type of product. According to the 2012 Annual Report of the E911 Board, the suspension of collections from prepaid wireless service has resulted in a continual loss of E911 fee revenues each year since 2007, including a loss of \$13.6 million in 2012.

The E911 Board helps implement and oversee the E911 system and administers the funds derived from the E911 fee. The primary function of the Board is to make disbursements from the E911 Trust Fund to county governments and wireless providers. The Board has the authority to adjust the level of the fee, within the \$0.50 cap, once annually.

The bill amends ss. 365.172 and 365.173, F.S., as follows:

- Provides a mechanism for collection of the E911 fee on prepaid wireless services by retailers at the point of sale and establishes a new category in the E911 Trust Fund for revenues derived from this fee.
- Sets the E911 fee at \$0.46 per month per service identifier (for post-paid voice communications services) and applies this fee to prepaid wireless service for each retail transaction.
- Retains the existing E911 fee cap of \$0.50 and allows the Board, no sooner than one year after implementation of the fee, to adjust the rate under this cap by a two-thirds vote of the Board membership.
- Expands the list of authorized county expenditures for which E911 system funds may be used.
- Modifies the percentage of funds to be distributed to counties, such that counties will receive 97 percent of the moneys in the wireline category (up from 96 percent), 76 percent of the moneys in the wireless category (up from 67 percent), and 61 percent of the moneys in the new prepaid wireless category.
- Reduces the percentage of funds available for distribution to wireless providers from 30 percent to 20 percent.
- Provides that 35 percent of the moneys in the new prepaid wireless category will be retained by the Board to provide E911 grants to counties for the purpose of upgrading and replacing E911 systems, developing and maintaining statewide 911 routing and mapping systems, and developing and maintaining next-generation 911 services and equipment.
- Amends and creates definitions to conform to the substantive provisions of the bill, removes obsolete provisions, and amends cross-references.

Based on Revenue Estimating Conference analysis, staff estimates that the bill will have a positive FY 2014-15 impact to the E911 Trust Fund of \$7.6 million (\$17.0 million recurring). A nonrecurring appropriation of \$500,000 is provided to the DOR for first-year implementing costs. DOR may retain an administrative charge of up to 3.2 percent of the funds remitted from prepaid wireless E911 fees to cover any remaining costs before transferring the remainder to the E911 Trust Fund. Amounts retained by DOR are estimated to be \$339,866 in FY 2014-15 and \$461,525 each year thereafter.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Emergency Communications Number E911 Act¹ establishes a statewide E911 system for wireless telephone users. To fund the E911 system, the act imposes a monthly fee, capped at \$0.50, on voice communications services. This fee funds costs incurred by local governments to install and operate 911 systems and reimburses wireless providers for costs incurred to provide 911 or E911 services.

Section 365.172(8), F.S., requires voice communications services providers to collect the E911 fee from the subscribers of voice communications services on a service identifier basis. The fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service, such as Voice over Internet Protocol. There is no mechanism in place for collection of the fee from the sale of prepaid wireless services.² State and local governments are not subject to the fee.³

The E911 Board (Board), formerly the Wireless 911 Board, helps implement and oversee the E911 system and administers the funds derived from the E911 fee. The primary function of the Board is to make disbursements from the Emergency Communications Number E911 System Fund (E911 Fund) to county governments and wireless providers according to s. 365.173, F.S. The Board has the authority to adjust the level of the fee, within the \$0.50 cap, once annually. The fee is currently at the \$0.50 cap except for nonwireless access line services in three counties that – via ordinance prior to 2007 – had a lower rate established. According to the Department of Management Services' Legislative Bill Analysis for this bill, the nonwireless access line rate for Duval and Lee counties will be \$0.44 per month and Volusia County will be \$0.41 per month.

All 67 counties in Florida have reported capability to receive a call back number and location provided for a cellular caller from the service provider.⁴ The next progression in E911 systems is referred to as Next Generation 911 (NG 911). According to the E911 Board's *2012 Annual Report*, NG-911 is the migration of E911 systems to Internet Protocol-capable equipment and networks, which will resolve deficiencies in the current systems while providing data, text, and video capabilities to support emergency communications. The Board and Florida's public safety agencies are currently planning, designing, and implementing emergency services Internet Protocol (IP) networks and system replacements, though the development of an NG-911 system will likely involve a multi-year transition.⁵

E911 Fees for Prepaid Wireless Service

In 2006, the Board was required⁶ to evaluate the 911 system revenues and services costs to determine the date that the wireless E911 fee could be reduced to a level that still funds all counties' E911 costs,

¹ Formerly known as the Wireless Emergency Communications Act (Chapter 99-367, L.O.F., codified in s. 365.172, F.S.).

² Prepaid wireless service is defined as "the right to access telecommunications services, which must be paid for in advance and sold in predetermined units or dollars enabling the originator to make calls such that the number of units or dollars declines with use in a known amount." See s. 365.172(8)(a)2.b.(I), F.S.

³ Section 365.172(8)(c), F.S.

⁴ Florida Department of Management Services, *Florida E911*, available at http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911 (last visited January 2014).

⁵ *2012 Annual Report of the E911 Board*.

⁶ See proviso language accompanying specific appropriation 2946 of the Fiscal Year 2006-07 General Appropriations Act (HB 5001).

service provider costs, and Board administration costs. In its report, the Board concluded that there were insufficient fee revenues collected to cover all county and service provider E911 costs.⁷

In its report, the Board also recommended that the Legislature consider changing the provisions relating to prepaid calling services so that fees are imposed on users in a fair and consistent manner. At that time, E911 fees for prepaid wireless service were remitted based upon each prepaid wireless telephone associated with this state, for each wireless service customer that had a sufficient positive balance as of the last day of each month. Recognizing that direct billing may not be possible, the law provided that the surcharge amount, or an equivalent number of minutes, may be reduced from the prepaid wireless subscriber's account.

In 2007, the Legislature suspended collection of E911 fees on prepaid wireless service until July 1, 2009, and required the board to conduct a study on the collection of E911 fees on the sale of prepaid wireless service.⁸ The resulting report⁹ concluded that it is feasible to collect E911 fees from the sale of prepaid wireless service on an equitable, competitively neutral, and nondiscriminatory basis.

In 2010, the Legislature extended the suspension of E911 fee collections for prepaid wireless service through July 1, 2013.¹⁰

The following chart shows revenue collected broken down into wireless and non-wireless sources.

Fiscal Year	2009-10	2010-11	2011-12	2012-13	2013-14*
Wireless	\$77,004,396	\$76,696,820	\$70,780,526	\$64,860,906	\$65,917,027
NonWireless	\$48,200,068	\$46,109,695	\$44,183,675	\$42,994,297	\$40,719,675
Totals	\$125,204,464	\$122,806,515	\$114,964,201	\$107,855,203	\$106,636,702

*DMS Estimate

Distribution of E911 Funds

Funds generated from the E911 fees levied on subscribers are accounted for in the Emergency Communications Number E911 System Fund and segregated into two separate categories: wireless and nonwireless.¹² One percent of the moneys in each category is retained by the Board to cover the costs of managing, administering, and overseeing the E911 Fund. Two percent of the moneys in each category are used to make monthly distributions to rural counties for facilities, network and service enhancements, and assistance for their E911 systems and to make grants to rural counties to upgrade and replace such systems.

In the wireless category, 67 percent of the moneys are distributed monthly to counties, based on the total number of service identifiers in each county. The county may use these funds to pay for expenditures related to establishing or providing E911 services and contracting for E911 services, as well as to pay for complying with the requirements for E911 service contained in specified Federal Communications Commission orders.¹³ The remaining 30 percent of the moneys in the wireless

⁷ Florida Department of Management Services, E911 Board, *2006 Wireline and Wireless 911 Fee Evaluation Legislative Report* (Sept. 29, 2006).

⁸ Chapter 2007-78, L.O.F.

⁹ Florida Department of Management Services, E911 Board, *E911 Prepaid Wireless Fee Collection and E911 Fee Exemptions: A Feasibility Analysis*, p. 106 (December 15, 2008), available at http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911/e911_board_prepaid_study (last visited January 2014).

¹⁰ Chapter 2010-50, L.O.F.

¹¹ Florida Department of Management Services, E911 Board, *2012 Annual Report*, p.40, available at <http://www.dms.myflorida.com/content/download/89127/509584/2012> (last visited February, 2014)

¹² Section 365.173(1), F.S.

¹³ Section 365.173(2)(a), F.S. See also s. 365.172(9), F.S.

category are available for distribution to wireless providers as reimbursement for actual costs incurred to provide E911 service.

In the nonwireless category, 97 percent of the moneys are distributed monthly to counties based on the total number of service identifiers in each county. The county may use these funds exclusively to pay for expenditures related to establishing or providing E911 services and contracting for E911 services.¹⁴

Section 365.172(9), F.S., specifies the types of expenses for which funds derived from the E911 fee may be expended. In general, all costs directly attributable to the establishment or provision of E911 service and contracting for E911 services are eligible. For this purpose, the law defines E911 service to include the functions of database management, call taking, dispatching, location verification, and call transfer.

A county may carry forward up to 30 percent of the total funds it receives from the Board during a calendar year for expenditures for capital outlay, capital improvements, or equipment replacement provided that the expenditures are otherwise authorized uses of the funds derived from E911 fees.

Indemnification and Limitation of Liability

In general, a service provider that provides 911 or E911 service on a retail or wholesale basis is not liable for damages resulting from or in connection with 911 or E911 service, or for identification of the telephone number, or address, or name associated with any person accessing 911 or E911 service.¹⁵ Further, a provider is not liable for damages to any person resulting from or in connection with the provider's provision of any lawful assistance to any investigative or law enforcement officer of the United States, this state, or a political subdivision thereof, or of any other state or political subdivision thereof, in connection with any lawful investigation or other law enforcement activity by such law enforcement officer.¹⁶

A provider is not obligated to take legal action to enforce collection of the E911 fee for which a consumer is billed.¹⁷

Effect of Proposed Changes

The bill amends ss. 365.172 and 365.173, F.S., as follows:

- Specifies a mechanism for collection of the E911 fee on prepaid wireless services by retailers at the point of sale.
- Establishes a new category in the E911 Trust Fund for revenues derived from the fee applied to prepaid wireless service.
- Sets the E911 fee at \$0.46 per month per service identifier (for post-paid voice communications services) and applies this fee to prepaid wireless service for each retail transaction.
- Retains the existing E911 fee cap of \$0.50 and allows the Board, no earlier than a year after the fee imposition, to adjust the rate under this cap by a two-thirds vote of the total number of all Board members.
- Expands the list of authorized county expenditures for which E911 system funds may be used.
- Modifies the percentage of funds to be distributed to counties, such that counties will receive 97 percent of the moneys in the wireline category (up from 96 percent), 76 percent of the moneys in the wireless category (up from 67 percent), and 61 percent of the moneys in the new prepaid wireless category.

¹⁴ Section 365.173(2)(b), F.S.

¹⁵ Section 365.172(11), F.S. An exception exists when the provider acts with malicious purpose or in a manner exhibiting wanton and willful disregard of the rights, safety, or property of a person when providing such services.

¹⁶ Id.

¹⁷ Section 365.172(8)(b), F.S.

- Reduces the percentage of funds available for distribution to wireless providers from 30 percent to 20 percent.
- Provides that 35 percent of the moneys in the new prepaid wireless category will be retained by the Board to provide E911 grants to counties for the purpose of upgrading and replacing E911 systems, developing and maintaining statewide 911 routing and mapping systems, and developing and maintaining next-generation 911 services and equipment.
- Amends and creates definitions to conform to the substantive provisions of the bill.
- Removes obsolete provisions and amends cross-references.

E911 Fees for Prepaid Wireless Service

The bill creates subsection (9) of section 365.172, F.S., to specify a mechanism for collection of the E911 fee on each retail purchase of prepaid wireless service from a seller. The bill defines prepaid wireless service:

“Prepaid wireless service” means a right to access wireless service that allows a caller to contact and interact with 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars, which units or dollars expire on a predetermined schedule or are decremented on a predetermined basis in exchange for the right to access wireless service.

Effective the first day of the month following 120 days after the act takes effect, the E911 fee will be set at \$0.46 per month per service identifier and applied to prepaid wireless service for each retail transaction.¹⁸ If the fee rate is adjusted by the Board under the existing cap of \$0.50 (which may not occur sooner than one year after the fee is imposed and without a two-thirds vote of the total number of Board members), the Board must notify the Department of Revenue (DOR) of the adjusted rate and its effective date no less than 120 days before the effective date. In turn, DOR must provide notice of the adjusted fee rate and its effective date to each seller no less than 90 days before the effective date.

The bill requires the fee to be collected by the seller of the prepaid wireless service on each retail transaction¹⁹ occurring in Florida. The amount of the fee must be separately stated or disclosed to the consumer. For purposes of collecting the fee, the bill provides that a retail transaction shall be treated as occurring in Florida if the retail transaction occurs in person at a seller’s business location that is in the state. Further, the transaction will be deemed to have occurred in the county of that business location. When a transaction does not take place at a seller’s business location but an item is shipped, the transaction will be treated as occurring in the county of the customer’s shipping address. If an item is not shipped, the transaction will be treated as occurring in the county of the consumer’s address or location associated with the consumer’s mobile phone number. If a specific Florida county cannot be identified, it will be treated as “non-specific.”²⁰

The bill includes provisions designed to address the expense incurred by sellers to collect the E911 fee on prepaid wireless service. The bill requires sellers to begin collecting the fee on the first day of the month following 120 days after the act takes effect, at a rate of \$0.46 per retail transaction, and begin remitting the moneys to DOR 180 days after the act takes effect. Sellers may retain all moneys

¹⁸ Except for nonwireless access line services in three counties that – via ordinance prior to 2007 – had a lower rate established. According to the Department of Management Services’ Legislative Bill Analysis for this bill, the nonwireless access line rate for Duval and Lee counties will be \$0.44 per month and Volusia County will be \$0.41 per month.

¹⁹ The bill defines “retail transaction” as “the purchase by a consumer from a seller of prepaid wireless service that may be applied to a single service identifier for use by the consumer.” If a consumer makes a purchase of multiple prepaid wireless services in a single transaction, the bill provides that each individual prepaid wireless service shall be considered a separate retail transaction for purposes of calculating the applicable E911 fee. The bill also provides that a seller may elect not to apply the fee to a transaction in which a prepaid wireless device is sold for a single, nonitemized price with a prepaid wireless service of 10 minutes or less or \$5 or less.

²⁰ E911 fee revenues derived from transactions designated as “non-specific” may be distributed as determined by the Board.

collected for the first two months to offset setup costs. The bill allows sellers to retain five percent of the fees collected thereafter as a “retailer collection allowance.”

The bill specifies the manner in which sellers must file returns and remit the E911 fees collected. On or before the 20th day of each month, beginning the first month after the fee is imposed each seller must file a return and remit to DOR the fees it collected in the prior month.²¹ The bill allows a seller to remit the fees through an electronic transfer and to file its return through an electronic data exchange. If DOR has authorized the seller to file its sales and use tax return on a quarterly, semiannual, or annual basis, the seller may remit the E911 fees and file its return on or before the 20th day of the month following that reporting period. A seller that collects less than \$50 per month of E911 fees is permitted to file quarterly returns on or before the 20th day of the month following each quarterly period. If the seller is required to file a return for two or more business locations, the bill allows the seller to file a consolidated return, provided that the seller reports the E911 fees it has collected by county. No return is required if there are no fees to remit.

The bill specifies the information that must be provided in each E911 fee return filed with DOR. This information includes: the seller's name, tax identification numbers, business location and address; the county of the business location; the reporting period; the number of prepaid wireless services sold during the reporting period and the amount of E911 fees collected on those services, including the amount of any adjustments made to the fees collected; the amount of the retailer collection allowance deducted from the amount of fees collected; and the amount to be remitted to DOR.

The bill requires every seller of prepaid wireless service in Florida to register with DOR for each place of business, as required by existing laws regarding registration as a sales and use tax dealer. A separate application is required for each place of business. The bill provides that a valid certificate of registration issued by DOR for sales and use tax purposes is sufficient for these purposes, and there is no fee for registration for remittance of E911 fees.

The bill requires DOR to deposit the E911 fees it receives into the Audit and Warrant Clearing Trust Fund established in s. 215.199, F.S. The bill allows DOR to reimburse its direct costs of administering the collection and remittance of the fees by retaining up to 3.2 percent of the funds remitted to it. DOR must transfer all remaining funds into the Emergency Communications Number E911 System Fund on a monthly basis, on the 25th day of each month following the month of receipt.

The bill also provides a nonrecurring appropriation of \$500,000 to DOR for the purposes of administering the collection and remittance of the E911 fees from prepaid wireless service in fiscal year 2014-2015..

Distribution of E911 Funds

The bill establishes a new category in the E911 Fund for revenues derived from application of the E911 fee to prepaid wireless service. Of the moneys transferred into the E911 Fund and placed into this new category (i.e., the funds derived from the fee that remain after prepaid wireless sellers and DOR have withheld the amounts allowed by the bill to cover their implementation costs), the bill specifies the following distribution:

- 61 percent will be distributed each month to counties based on the total amount of fees reported and paid in each county;
- 35 percent will be retained by the Board to provide E911 grants to all counties for the purpose of upgrading and replacing E911 systems, developing and maintaining statewide 911 routing and mapping systems, and developing and maintaining next-generation 911 services and equipment;

²¹ If the 20th day of the month is a Saturday, Sunday, or legal holiday, the deadline is extended until the next business day.
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DATE: 2/18/2014

- Three percent will be used to make monthly distributions to rural counties for facilities, network and service enhancements, and assistance for their E911 systems and to make grants to rural counties to upgrade and replace such systems; and
- One percent will be retained by the Board to cover the costs of managing, administering, and overseeing the E911 Fund.²²

The bill provides that E911 fee revenues derived from transactions designated as “non-specific” (i.e., where the appropriate county cannot be identified) may be distributed as determined by the Board.

The bill increases distributions from the wireless category to counties from 67 percent to 76 percent. The bill decreases the percentage of funds available from the wireless category for distribution to wireless providers from 30 percent to 20 percent.

The bill decreases distributions from the nonwireless category to counties from 97 percent to 96 percent.

The bill increases the percentage of funds available from both the wireless and nonwireless categories to be used to make monthly distributions to rural counties for facilities, network and service enhancements, and assistance for their E911 systems and to make grants to rural counties to upgrade and replace such systems. Three percent of the funds in these categories will be available for these purposes, rather than the current two percent.

The bill clarifies that any county that receives funds from the E911 Fund may not reduce, withhold, or allocate such funds (plus any interest accrued on such funds) for purposes other than covering the costs specified in statute. Further, the bill provides that the county’s annual financial audit must assure that all E911 fee revenues, interest, and E911 grant funding are used as specified in statute and as specified by the E911 Board’s grant and special disbursement programs. The bill also requires counties to submit these financial audit reports to the Board.

The bill expands the list of authorized expenditures for which funds distributed from the E911 Fund may be used. The bill provides that Department of Health certification and recertification and training costs for 911 public safety communications, including dispatching, are functions of 911 services. In addition, it adds the following items to the list of authorized expenditures:

- Circuits
- GIS system and software equipment and information displays
- Salary and associated expenses for a county to employ technical system maintenance, database, and administration personnel
- Emergency medical, fire, and law enforcement prearrival instruction software, charts, and training costs

Indemnification and Limitation of Liability

The bill applies existing indemnification and limitation of liability protections to sellers and providers of prepaid wireless service. These protections, which are substantially similar to existing provisions related to the provision of 911 or E911 service by other voice communications services, provide as follows:

- A provider or seller of prepaid wireless service is not liable for damages to any person resulting from or incurred in connection with providing or failing to provide 911 or E911 service or for identifying or failing to identify the telephone number, address, location, or name associated with any person or device that is accessing or attempting to access 911 or E911 service.

²² The Board currently retains one percent of all moneys in the E911 Fund for this purpose.

- A provider or seller of prepaid wireless service is not liable for damages to any person resulting from or incurred in connection with providing any lawful assistance to any investigative or law enforcement officer of the United States, any state, or any political subdivision of any state in connection with any lawful investigation or other law enforcement activity by such law enforcement officer.

Miscellaneous Provisions

The bill specifies that the amount of the E911 fee collected may not be included in the base for measuring any tax, fee, surcharge, or other charge imposed by the state, any political subdivision of the state, or any governmental agency.

The bill also provides that a local government may not levy any additional fee for the provision of E911 service.

The bill provides that the Board, when determining the funding provided in a state 911 grant application, must take into account information concerning the amount of carry-forward funds retained by the county from prior years. Such grants shall be limited by any county carry-forward funds in excess of the allowable 30 percent carry over, calculated on a 2-year basis.

The bill amends and creates definitions to conform to the substantive provisions of the bill. The bill also removes obsolete provisions from ss. 365.172 and 365.173, F.S., amends cross-references, and directs the Division of Law Revision and Information to replace the phrase "on the first day of the month following 120 days after this act takes effect" or the phrase "on the first day of the month following 180 days after this act takes effect" wherever it occurs in this act with the respective date.

B. SECTION DIRECTORY:

Section 1. Amends s. 365.172, F.S., relating to the emergency communications number E911 system.

Section 2. Amends s. 365.173, F.S., relating to the emergency communications number E911 system fund.

Section 3. Amends s. 401.465, conforming a cross-reference.

Section 4. Provides a directive to the Division of Law Revision and Information.

Section 5. Provides an appropriation to the Department of Revenue.

Section 6. Provides that, except as otherwise provided in the bill, the act takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimates that in FY 2014-15 the bill will have a positive impact to the E911 Trust Fund of \$7.6 million, with a recurring positive impact of \$17.0 million. The bill provides a nonrecurring appropriation of \$500,000 to the DOR for first-year costs of implementing the bill. Once collections begin, DOR is authorized to retain an administrative charge of up to 3.2 percent of the funds remitted from prepaid wireless E911 fees to cover any remaining

costs before to transferring the remainder to the E911 Trust Fund. Staff estimates that the amounts retained by DOR will be \$339,866 in FY 14-15 and \$461,525 each year thereafter.

2. Expenditures:

The Department of Revenue (DOR) has estimated its costs to implement the bill as shown below:

Dept. of Revenue	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Recurring				
	\$0	\$192,302	\$461,525	\$461,525
Non-Recurring				
Expense	\$0	\$115,686	\$0	\$0
Contracted Services	\$0	\$132,725	\$0	\$0
Total non-recurring	\$0	\$248,411	\$0	\$0
TOTAL	\$0	\$440,713	\$461,525	\$461,525

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires retail sellers of prepaid wireless service to collect the E911 fee on such transactions (other than those involving service of 10 minutes or less or \$5 or less) and remit the proceeds to the Department of Revenue (DOR). For these sellers, this requirement imposes initial costs for system setup and ongoing costs for collections and remittance. To address these costs, the bill allows sellers to retain 100 percent of their E911 fee collections for the first two months of collections and allows sellers to retain five percent of their E911 fee collections thereafter.

Consumers of prepaid wireless service with access to the E911 system will pay an E911 fee on those services. The E911 fee currently paid by consumers of other voice communications services will be reduced from \$0.50 to \$0.46 per month in most counties.

D. FISCAL COMMENTS:

Revenues from collection of the E911 fee are distributed by the Board to counties to cover authorized E911 system costs. Although the Board has not collected this fee from the sale of prepaid wireless service since 2007, users of prepaid wireless service are provided access to the E911 system. According to the 2012 Annual Report of the E911 Board, the suspension of collections from prepaid wireless service has resulted in a continual loss of E911 fee revenues each year since 2007, including

a decrease of \$13.6 million in 2012 (representing a 15.4% decrease in E911 fee revenues from wireless service and a 3.7% decrease in E911 fee revenues from nonwireless service).²³

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

²³ In accordance with s. 365.172 (6)(c), F.S., the release date of the *2013 Annual Report of the E911 Board* is anticipated to be February 28, 2014.

1 A bill to be entitled
 2 An act relating to emergency communication system;
 3 amending s. 365.172, F.S., relating to the Emergency
 4 Communications Number E911 System; revising
 5 definitions; revising provisions relating to oversight
 6 of certain fees by the Technology Program within the
 7 Department of Management Services; revising E911 board
 8 appointment provisions; revising duties of the board;
 9 revising provisions for administration, distribution,
 10 and use of the E911 fee; revising provisions for state
 11 E911 Grant Program funding; revising E911 fee
 12 provisions; revising fee collection procedures;
 13 providing that the state and local governments are not
 14 consumers for certain purposes; specifying the amount
 15 of the fee; revising provisions for use of the fees
 16 collected; authorizing the board to adjust the rate of
 17 the fee; providing that fees collected may not be
 18 included in the base for measuring any tax, fee,
 19 surcharge, or other charge; providing for a prepaid
 20 wireless E911 fee; limiting the amount of the fee;
 21 providing procedures for adjustment and imposition of
 22 the fee; requiring the Department of Revenue to
 23 provide notice to sellers; providing requirements for
 24 collection of the fee by the seller; providing
 25 criteria for the location of the transaction;
 26 providing requirements and procedures for filing
 27 returns and remitting fees to the Department of
 28 Revenue; providing that the Department of Revenue is

29 the agent for the E911 Board for purposes of
 30 collecting the prepaid wireless E911 fee; requiring
 31 sellers of prepaid wireless services to register with
 32 the department; providing for distribution of funds
 33 remitted; limiting liability of provider or seller of
 34 prepaid wireless service; prohibiting a local
 35 government from imposing a fee on sellers of prepaid
 36 wireless services; providing that the state and local
 37 governments are not consumers for certain purposes;
 38 providing definitions for specified purposes; revising
 39 provisions for authorized expenditures of the E911
 40 fee; providing that certain costs of the Department of
 41 Health are functions of 911 services; amending s.
 42 365.173, F.S.; revising provisions for accounting,
 43 distribution, use, and auditing of the Emergency
 44 Communications Number E911 System Fund; providing for
 45 a prepaid wireless category in such fund; amending s.
 46 401.465, F.S.; conforming a cross-reference; providing
 47 a directive to the Division of Law Revision and
 48 Information; providing an appropriation; providing
 49 effective dates.

50
 51 Be It Enacted by the Legislature of the State of Florida:

52
 53 Section 1. Subsections (3) through (9) of section 365.172,
 54 Florida Statutes, are amended, present subsections (9) through
 55 (14) of that section are renumbered as subsections (10) through
 56 (15), respectively, and a new subsection (9) is added to that

57 section, to read:

58 365.172 Emergency communications number "E911."~~—~~

59 (3) DEFINITIONS.—Only as used in this section and ss.
60 365.171, 365.173, and 365.174, the term:

61 ~~(a) "Answering point" means the public safety agency that~~
62 ~~receives incoming 911 calls and dispatches appropriate public~~
63 ~~safety agencies to respond to the calls.~~

64 (a)~~(b)~~ "Authorized expenditures" means expenditures of the
65 fee, as specified in subsection (10) ~~(9)~~.

66 (b)~~(c)~~ "Automatic location identification" means the
67 capability of the E911 service which enables the automatic
68 display of information that defines the approximate geographic
69 location of the wireless telephone, or the location of the
70 address of the wireline telephone, used to place a 911 call.

71 (c)~~(d)~~ "Automatic number identification" means the
72 capability of the E911 service which enables the automatic
73 display of the service number used to place a 911 call.

74 (d)~~(e)~~ "Board" or "E911 Board" means the board of
75 directors of the E911 Board established in subsection (5).

76 (e)~~(f)~~ "Building permit review" means a review for
77 compliance with building construction standards adopted by the
78 local government under chapter 553 and does not include a review
79 for compliance with land development regulations.

80 (f)~~(g)~~ "Collocation" means the situation when a second or
81 subsequent wireless provider uses an existing structure to
82 locate a second or subsequent antennae. The term includes the
83 ground, platform, or roof installation of equipment enclosures,
84 cabinets, or buildings, and cables, brackets, and other

85 equipment associated with the location and operation of the
 86 antennae.

87 (g)~~(h)~~ "Designed service" means the configuration and
 88 manner of deployment of service the wireless provider has
 89 designed for an area as part of its network.

90 (h)~~(i)~~ "Enhanced 911" or "E911" means ~~is the designation~~
 91 ~~for~~ an enhanced 911 system or enhanced 911 service that is an
 92 emergency telephone system or service that provides a subscriber
 93 with 911 service and, in addition, directs 911 calls to
 94 appropriate public safety answering points by selective routing
 95 based on the geographical location from which the call
 96 originated, or as otherwise provided in the state plan under s.
 97 365.171, and that provides for automatic number identification
 98 and automatic location-identification features. E911 service
 99 provided by a wireless provider means E911 as defined in the
 100 order.

101 (i)~~(j)~~ "Existing structure" means a structure that exists
 102 at the time an application for permission to place antennae on a
 103 structure is filed with a local government. The term includes
 104 any structure that can structurally support the attachment of
 105 antennae in compliance with applicable codes.

106 (j)~~(k)~~ "Fee" means the E911 fee authorized and imposed
 107 under subsections ~~subsection~~ (8) and (9).

108 (k)~~(l)~~ "Fund" means the Emergency Communications Number
 109 E911 System Fund established in s. 365.173 and maintained under
 110 this section for the purpose of recovering the costs associated
 111 with providing 911 service or E911 service, including the costs
 112 of implementing the order. The fund shall be segregated into

113 wireless, prepaid wireless, and nonwireless categories.

114 (l)~~(m)~~ "Historic building, structure, site, object, or
 115 district" means any building, structure, site, object, or
 116 district that has been officially designated as a historic
 117 building, historic structure, historic site, historic object, or
 118 historic district through a federal, state, or local designation
 119 program.

120 (m)~~(n)~~ "Land development regulations" means any ordinance
 121 enacted by a local government for the regulation of any aspect
 122 of development, including an ordinance governing zoning,
 123 subdivisions, landscaping, tree protection, or signs, the local
 124 government's comprehensive plan, or any other ordinance
 125 concerning any aspect of the development of land. The term does
 126 not include any building construction standard adopted under and
 127 in compliance with chapter 553.

128 (n)~~(o)~~ "Local exchange carrier" means a "competitive local
 129 exchange telecommunications company" or a "local exchange
 130 telecommunications company" as defined in s. 364.02.

131 (o)~~(p)~~ "Local government" means any municipality, county,
 132 or political subdivision or agency of a municipality, county, or
 133 political subdivision.

134 (p)~~(q)~~ "Medium county" means any county that has a
 135 population of 75,000 or more but less than 750,000.

136 (q)~~(r)~~ "Mobile telephone number" or "MTN" means the
 137 telephone number assigned to a wireless telephone at the time of
 138 initial activation.

139 (r)~~(s)~~ "Nonwireless category" means the revenues to the
 140 fund received from voice communications services providers other

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141 than wireless providers.

142 ~~(s)~~ ~~(t)~~ "Office" means the Technology Program within the
 143 Department of Management Services, as designated by the
 144 secretary of the department.

145 ~~(t)~~ ~~(u)~~ "Order" means:

146 1. The following orders and rules of the Federal
 147 Communications Commission issued in FCC Docket No. 94-102:

148 a. Order adopted on June 12, 1996, with an effective date
 149 of October 1, 1996, the amendments to s. 20.03 and the creation
 150 of s. 20.18 of Title 47 of the Code of Federal Regulations
 151 adopted by the Federal Communications Commission pursuant to
 152 such order.

153 b. Memorandum and Order No. FCC 97-402 adopted on December
 154 23, 1997.

155 c. Order No. FCC DA 98-2323 adopted on November 13, 1998.

156 d. Order No. FCC 98-345 adopted December 31, 1998.

157 2. Orders and rules subsequently adopted by the Federal
 158 Communications Commission relating to the provision of 911
 159 services, including Order Number FCC-05-116, adopted May 19,
 160 2005.

161 (u) "Prepaid wireless category" means all revenues in the
 162 fund received through the Department of Revenue from the fee
 163 authorized and imposed under subsection (9).

164 (v) "Prepaid wireless service" means a right to access
 165 wireless service that allows a caller to contact and interact
 166 with 911 to access the 911 system, which service must be paid
 167 for in advance and is sold in predetermined units or dollars,
 168 which units or dollars expire on a predetermined schedule or are

169 decremented on a predetermined basis in exchange for the right
 170 to access wireless service.

171 ~~(v) "Prepaid calling arrangements" has the same meaning as~~
 172 ~~defined in s. 212.05(1)(e).~~

173 (w) "Public agency" means the state and any municipality,
 174 county, municipal corporation, or other governmental entity,
 175 public district, or public authority located in whole or in part
 176 within this state which provides, or has authority to provide,
 177 firefighting, law enforcement, ambulance, medical, or other
 178 emergency services.

179 (x) "Public safety agency" means a functional division of
 180 a public agency which provides firefighting, law enforcement,
 181 medical, or other emergency services.

182 (y) "Public safety answering point," "PSAP," or "answering
 183 point" means the public safety agency that receives incoming 911
 184 requests for assistance and dispatches appropriate public safety
 185 agencies to respond to the requests in accordance with the state
 186 E911 plan.

187 ~~(z)(y)~~ "Rural county" means any county that has a
 188 population of fewer than 75,000.

189 ~~(aa)(z)~~ "Service identifier" means the service number,
 190 access line, or other unique ~~subscriber~~ identifier assigned to a
 191 subscriber and established by the Federal Communications
 192 Commission for purposes of routing calls whereby the subscriber
 193 has access to the E911 system.

194 ~~(bb)(aa)~~ "Tower" means any structure designed primarily to
 195 support a wireless provider's antennae.

196 ~~(cc)(bb)~~ "Voice communications services" means two-way

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197 voice service, through the use of any technology, which actually
 198 provides access to E911 services, and includes communications
 199 services, as defined in s. 202.11, which actually provide access
 200 to E911 services and which are required to be included in the
 201 provision of E911 services pursuant to orders and rules adopted
 202 by the Federal Communications Commission. The term includes
 203 voice-over-Internet-protocol service. For the purposes of this
 204 section, the term "voice-over-Internet-protocol service" or
 205 "VoIP service" means interconnected VoIP services having the
 206 following characteristics:

- 207 1. The service enables real-time, two-way voice
 208 communications;
- 209 2. The service requires a broadband connection from the
 210 user's locations;
- 211 3. The service requires IP-compatible customer premises
 212 equipment; and
- 213 4. The service offering allows users generally to receive
 214 calls that originate on the public switched telephone network
 215 and to terminate calls on the public switched telephone network.

216 (dd)~~(ee)~~ "Voice communications services provider" or
 217 "provider" means any person or entity providing voice
 218 communications services, except that the term does not include
 219 any person or entity that resells voice communications services
 220 and was assessed the fee authorized and imposed under subsection
 221 (8) by its resale supplier.

222 (ee)~~(dd)~~ "Wireless 911 system" or "wireless 911 service"
 223 means an emergency telephone system or service that provides a
 224 subscriber with the ability to reach an answering point by

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225 accessing the digits "911."

226 (ff)~~(ee)~~ "Wireless category" means the revenues to the
 227 fund received from a wireless provider from the fee authorized
 228 and imposed under subsection (8).

229 (gg)~~(ff)~~ "Wireless communications facility" means any
 230 equipment or facility used to provide service and may include,
 231 but is not limited to, antennae, towers, equipment enclosures,
 232 cabling, antenna brackets, and other such equipment. Placing a
 233 wireless communications facility on an existing structure does
 234 not cause the existing structure to become a wireless
 235 communications facility.

236 (hh)~~(gg)~~ "Wireless provider" means a person who provides
 237 wireless service and:

- 238 1. Is subject to the requirements of the order; or
- 239 2. Elects to provide wireless 911 service or E911 service
- 240 in this state.

241 (ii)~~(hh)~~ "Wireless service" means "commercial mobile radio
 242 service" as provided under ss. 3(27) and 332(d) of the Federal
 243 Telecommunications Act of 1996, 47 U.S.C. ss. 151 et seq., and
 244 the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-
 245 66, August 10, 1993, 107 Stat. 312. The term includes service
 246 provided by any wireless real-time two-way wire communication
 247 device, including radio-telephone communications used in
 248 cellular telephone service; personal communications service; or
 249 the functional or competitive equivalent of a radio-telephone
 250 communications line used in cellular telephone service, a
 251 personal communications service, or a network radio access line.
 252 The term does not include wireless providers that offer mainly

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253 dispatch service in a more localized, noncellular configuration;
 254 providers offering only data, one-way, or stored-voice services
 255 on an interconnected basis; providers of air-to-ground services;
 256 or public coast stations.

257 (4) POWERS AND DUTIES OF THE OFFICE.—The office shall
 258 oversee the administration of the fee authorized and imposed ~~on~~
 259 ~~subscribers of voice communications services~~ under subsections
 260 ~~subsection~~ (8) and (9).

261 (5) THE E911 BOARD.—

262 (a) The E911 Board is established to administer, with
 263 oversight by the office, the fee imposed under subsections
 264 ~~subsection~~ (8) and (9), including receiving revenues derived
 265 from the fee; distributing portions of the revenues to wireless
 266 providers, counties, and the office; accounting for receipts,
 267 distributions, and income derived by the funds maintained in the
 268 fund; and providing annual reports to the Governor and the
 269 Legislature for submission by the office on amounts collected
 270 and expended, the purposes for which expenditures have been
 271 made, and the status of E911 service in this state. In order to
 272 advise and assist the office in implementing the purposes of
 273 this section, the board, which has the power of a body
 274 corporate, has the powers enumerated in subsection (6).

275 (b) The board shall consist of 11 members, one of whom
 276 must be the system director designated under s. 365.171(5), or
 277 his or her designee, who shall serve as the chair of the board.
 278 The remaining 10 members of the board shall be appointed by the
 279 Governor and must be composed of 5 county 911 coordinators,
 280 consisting of a representative from a rural county, a

281 representative from a medium county, a representative from a
 282 large county, and 2 at-large representatives recommended by the
 283 Florida Association of Counties in consultation with the county
 284 911 coordinators; 3 local exchange carrier member
 285 representatives, one of whom must be a representative of the
 286 local exchange carrier having the greatest number of access
 287 lines in the state and one of whom must be a representative of a
 288 certificated competitive local exchange telecommunications
 289 company; and 2 member representatives from the wireless
 290 telecommunications industry, with consideration given to
 291 wireless providers that are not affiliated with local exchange
 292 carriers. Not more than one member may be appointed to represent
 293 any single provider on the board.

294 (c) The system director, designated under s. 365.171(5),
 295 or his or her designee, must be a permanent member of the board.
 296 Each of the remaining 10 ~~eight~~ members of the board shall be
 297 appointed to a 4-year term and may not be appointed to more than
 298 two successive terms. However, for the purpose of staggering
 299 terms, two of the original board members shall be appointed to
 300 terms of 4 years, two shall be appointed to terms of 3 years,
 301 and four shall be appointed to terms of 2 years, as designated
 302 by the Governor. A vacancy on the board shall be filled in the
 303 same manner as the original appointment.

304 ~~(d) The first vacancy in a wireless provider~~
 305 ~~representative position occurring after July 1, 2007, must be~~
 306 ~~filled by appointment of a local exchange company~~
 307 ~~representative. Until the appointment is made, there shall be~~
 308 ~~only one local exchange company representative serving on the~~

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309 ~~board, notwithstanding any other provision to the contrary.~~

310 (6) AUTHORITY OF THE BOARD; ANNUAL REPORT.—

311 (a) The board shall:

312 1. Administer the E911 fee.

313 2. Implement, maintain, and oversee the fund.

314 3. Review and oversee the disbursement of the revenues
315 deposited into the fund as provided in s. 365.173.

316 a. The board may establish a schedule for implementing
317 wireless E911 service by service area, and prioritize
318 disbursements of revenues from the fund to providers and rural
319 counties as provided in s. 365.173(2)(e) ~~s. 365.173(2)(d)~~ and
320 (g) pursuant to the schedule, in order to implement E911
321 services in the most efficient and cost-effective manner.

322 b. Revenues in the fund which have not been disbursed
323 because sworn invoices as required by s. 365.173(2)(e) ~~s.~~
324 ~~365.173(2)(d)~~ have not been submitted to the board may be used
325 by the board as needed to provide grants to counties for the
326 purpose of upgrading E911 systems. The counties must use the
327 funds only for capital expenditures or remotely provided hosted
328 911 answering point call-taking equipment and network services
329 directly attributable to establishing and provisioning E911
330 services, which may include next-generation deployment. Prior to
331 the distribution of grants, the board shall provide 90 days'
332 written notice to all counties and publish electronically an
333 approved application process. County grant applications shall be
334 prioritized based on the availability of funds, current system
335 life expectancy, system replacement needs, and Phase II
336 compliance per the Federal Communications Commission. No grants

337 will be available to any county for next-generation deployment
 338 until all counties are Phase II complete. The board shall take
 339 all actions within its authority to ensure that county
 340 recipients of such grants use these funds only for the purpose
 341 under which they have been provided and may take any actions
 342 within its authority to secure county repayment of grant
 343 revenues upon determination that the funds were not used for the
 344 purpose under which they were provided.

345 c. When determining the funding provided in a state 911
 346 grant application request, the board shall take into account
 347 information on the amount of carryforward funds retained by the
 348 counties. The information will be based on the amount of county
 349 carryforward funds reported in the financial audit required in
 350 s. 365.173(2)(d). E911 State Grant Program funding requests will
 351 be limited by any county carryforward funds in excess of the
 352 allowable 30 percent amount of fee revenue calculated on a 2-
 353 year basis.

354 ~~d.e.~~ The board shall reimburse all costs of a wireless
 355 provider in accordance with s. 365.173(2)(e) ~~s. 365.173(2)(d)~~
 356 before taking any action to transfer additional funds.

357 ~~d. By September 1, 2007, the board shall authorize the~~
 358 ~~transfer of up to \$15 million to the counties from existing~~
 359 ~~money within the fund established under s. 365.173(1). The money~~
 360 ~~shall be disbursed equitably to all of the counties using a~~
 361 ~~timeframe and distribution methodology established by the board~~
 362 ~~before September 1, 2007, in order to prevent a loss to the~~
 363 ~~counties in the ordinary and expected time value of money caused~~
 364 ~~by any timing delay in remittance to the counties of wireline~~

365 | ~~fees caused by the one-time transfer of collecting wireline fees~~
 366 | ~~by the counties to the board. All disbursements for this purpose~~
 367 | ~~must be returned to the fund from future remittances by the~~
 368 | ~~nonwireless category.~~

369 | e. After taking the action required in sub-subparagraphs
 370 | a.-d., the board may review and, with all members participating
 371 | in the vote, adjust the percentage allocations or adjust the
 372 | amount of the fee as provided, ~~or both~~, under paragraph (8)(g)
 373 | ~~(8)(h)~~, and, if the board determines that the revenues in the
 374 | wireless category exceed the amount needed to reimburse wireless
 375 | providers for the cost to implement E911 services, the board may
 376 | transfer revenue to the counties from the existing funds within
 377 | the wireless category. The board shall disburse the funds
 378 | equitably to all counties using a timeframe and distribution
 379 | methodology established by the board.

380 | 4. Review documentation submitted by wireless providers
 381 | which reflects current and projected funds derived from the fee,
 382 | and the expenses incurred and expected to be incurred in order
 383 | to comply with the E911 service requirements contained in the
 384 | order for the purposes of:

385 | a. Ensuring that wireless providers receive fair and
 386 | equitable distributions of funds from the fund.

387 | b. Ensuring that wireless providers are not provided
 388 | disbursements from the fund which exceed the costs of providing
 389 | E911 service, including the costs of complying with the order.

390 | c. Ascertaining the projected costs of compliance with the
 391 | requirements of the order and projected collections of the fee.

392 | d. Implementing changes to the allocation percentages or

393 adjusting the fee under paragraph (8)(h) ~~(8)(i)~~.

394 5. Meet monthly in the most efficient and cost-effective
 395 manner, including telephonically when practical, for the
 396 business to be conducted, to review and approve or reject, in
 397 whole or in part, applications submitted by wireless providers
 398 for recovery of moneys deposited into the wireless category, and
 399 to authorize the transfer of, and distribute, the fee allocation
 400 to the counties.

401 6. Hire and retain employees, which may include an
 402 independent executive director who shall possess experience in
 403 the area of telecommunications and emergency 911 issues, for the
 404 purposes of performing the technical and administrative
 405 functions for the board.

406 7. Make and enter into contracts, pursuant to chapter 287,
 407 and execute other instruments necessary or convenient for the
 408 exercise of the powers and functions of the board.

409 8. Sue and be sued, and appear and defend in all actions
 410 and proceedings, in its corporate name to the same extent as a
 411 natural person.

412 9. Adopt, use, and alter a common corporate seal.

413 10. Elect or appoint the officers and agents that are
 414 required by the affairs of the board.

415 11. The board may adopt rules under ss. 120.536(1) and
 416 120.54 to implement this section and ss. 365.173 and 365.174.

417 12. Provide coordination, support, and technical
 418 assistance to counties to promote the deployment of advanced 911
 419 and E911 systems in the state.

420 13. Provide coordination and support for educational

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421 opportunities related to E911 issues for the E911 community in
 422 this state.

423 14. Act as an advocate for issues related to E911 system
 424 functions, features, and operations to improve the delivery of
 425 E911 services to the residents of and visitors to this state.

426 15. Coordinate input from this state at national forums
 427 and associations, to ensure that policies related to E911
 428 systems and services are consistent with the policies of the
 429 E911 community in this state.

430 16. Work cooperatively with the system director
 431 established in s. 365.171(5) to enhance the state of E911
 432 services in this state and to provide unified leadership for all
 433 E911 issues through planning and coordination.

434 17. Do all acts and things necessary or convenient to
 435 carry out the powers granted in this section in a manner that is
 436 competitively and technologically neutral as to all voice
 437 communications services providers, including, but not limited
 438 to, consideration of emerging technology and related cost
 439 savings, while taking into account embedded costs in current
 440 systems.

441 18. Have the authority to secure the services of an
 442 independent, private attorney via invitation to bid, request for
 443 proposals, invitation to negotiate, or professional contracts
 444 for legal services already established at the Division of
 445 Purchasing of the Department of Management Services.

446 (b) Board members shall serve without compensation;
 447 however, members are entitled to per diem and travel expenses as
 448 provided in s. 112.061.

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449 (c) By February 28 of each year, the board shall prepare a
 450 report for submission by the office to the Governor, the
 451 President of the Senate, and the Speaker of the House of
 452 Representatives which addresses for the immediately preceding
 453 state fiscal year and county fiscal calendar year:

454 1. The annual receipts, including the total amount of fee
 455 revenues collected by each provider, the total disbursements of
 456 money in the fund, including the amount of fund-reimbursed
 457 expenses incurred by each wireless provider to comply with the
 458 order, and the amount of moneys on deposit in the fund.

459 2. Whether the amount of the fee and the allocation
 460 percentages set forth in s. 365.173 have been or should be
 461 adjusted to comply with the requirements of the order or other
 462 provisions of this chapter, and the reasons for making or not
 463 making a recommended adjustment to the fee.

464 3. Any other issues related to providing E911 services.

465 4. The status of E911 services in this state.

466 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING
 467 FIRM.—

468 (a) The board shall issue a request for proposals as
 469 provided in chapter 287 for the purpose of retaining an
 470 independent accounting firm. The independent accounting firm
 471 shall perform all material administrative and accounting tasks
 472 and functions required for administering the fee. The request
 473 for proposals must include, but need not be limited to:

474 1. A description of the scope and general requirements of
 475 the services requested.

476 2. A description of the specific accounting and reporting

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477 services required for administering the fund, including
 478 processing checks and distributing funds as directed by the
 479 board under s. 365.173.

480 3. A description of information to be provided by the
 481 proposer, including the proposer's background and qualifications
 482 and the proposed cost of the services to be provided.

483 (b) The board shall establish a committee to review
 484 requests for proposals which must include the statewide E911
 485 system director designated under s. 365.171(5), or his or her
 486 designee, and two members of the board, one of whom is a county
 487 911 coordinator and one of whom represents a voice
 488 communications services provider. The review committee shall
 489 review the proposals received by the board and recommend an
 490 independent accounting firm to the board for final selection. By
 491 agreeing to serve on the review committee, each member of the
 492 review committee shall verify that he or she does not have any
 493 interest or employment, directly or indirectly, with potential
 494 proposers which conflicts in any manner or degree with his or
 495 her performance on the committee.

496 (c) ~~After July 1, 2004,~~ The board may secure the services
 497 of an independent accounting firm via invitation to bid, request
 498 for proposals, invitation to negotiate, or professional
 499 contracts already established at the Division of Purchasing,
 500 Department of Management Services, for certified public
 501 accounting firms, or the board may hire and retain professional
 502 accounting staff to accomplish these functions.

503 (8) E911 FEE.—

504 (a) Each voice communications services provider shall

505 collect the fee described in this subsection, except that the
 506 fee for prepaid wireless service shall be collected in the
 507 manner set forth in subsection (9). Each provider, as part of
 508 its monthly billing process, shall bill the fee as follows. The
 509 fee shall not be assessed on any pay telephone in the state.

510 1. Each voice communications service provider other than a
 511 wireless provider shall bill the fee to a subscriber based on
 512 the number of access lines having access to the E911 system, on
 513 a service-identifier basis, up to a maximum of 25 access lines
 514 per account bill rendered.

515 2. Each voice communications service provider other than a
 516 wireless provider shall bill the fee to a subscriber on a basis
 517 of five service-identified access lines for each digital
 518 transmission link, including primary rate interface service or
 519 equivalent Digital-Signal-1-level service, which can be
 520 channelized and split into 23 or 24 voice-grade or data-grade
 521 channels for communications, up to a maximum of 25 access lines
 522 per account bill rendered.

523 3. Except in the case of prepaid wireless service, each
 524 wireless provider shall bill the fee to a subscriber on a per-
 525 service-identifier basis for service identifiers whose primary
 526 place of use is within this state. ~~Before July 1, 2013,~~ The fee
 527 shall not be assessed on or collected from a provider with
 528 respect to an end user's service if that end user's service is a
 529 prepaid wireless service before the fee under subsection (9)
 530 takes effect calling arrangement that is subject to s.
 531 212.05(1)(e).

532 a. ~~An E911 fee shall not be collected from the sale of~~

533 ~~prepaid wireless service before July 1, 2013.~~

534 ~~b. For purposes of this section, the term:~~

535 ~~(I) "Prepaid wireless service" means the right to access~~
 536 ~~telecommunications services, which must be paid for in advance~~
 537 ~~and sold in predetermined units or dollars enabling the~~
 538 ~~originator to make calls such that the number of units or~~
 539 ~~dollars declines with use in a known amount.~~

540 ~~(II) "Prepaid wireless service providers" includes those~~
 541 ~~persons who sell prepaid wireless service regardless of its~~
 542 ~~form, as a retailer or reseller.~~

543 4. Except in the case of prepaid wireless service, each
 544 ~~The~~ voice communications services provider ~~providers~~ not
 545 addressed under subparagraphs 1., 2., and 3. shall bill the fee
 546 on a per-service-identifier basis for service identifiers whose
 547 primary place of use is within the state up to a maximum of 25
 548 service identifiers for each account bill rendered.

549
 550 The provider may list the fee as a separate entry on each bill,
 551 in which case the fee must be identified as a fee for E911
 552 services. A provider shall remit the fee to the board only if
 553 the fee is paid by the subscriber. If a provider receives a
 554 partial payment for a monthly bill from a subscriber, the amount
 555 received shall first be applied to the payment due the provider
 556 for providing voice communications service.

557 (b) A provider is not obligated to take any legal action
 558 to enforce collection of the fees for which any subscriber is
 559 billed. A county subscribing to 911 service remains liable to
 560 the provider delivering the 911 service or equipment for any 911

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561 service, equipment, operation, or maintenance charge owed by the
 562 county to the provider.

563 (c) For purposes of this subsection ~~section~~, the state and
 564 local governments are not subscribers.

565 (d) Each provider may retain 1 percent of the amount of
 566 the fees collected as reimbursement for the administrative costs
 567 incurred by the provider to bill, collect, and remit the fee.
 568 The remainder shall be delivered to the board and deposited by
 569 the board into the fund. The board shall distribute the
 570 remainder pursuant to s. 365.173.

571 (e) ~~Effective September 1, 2007,~~ Voice communications
 572 services providers billing the fee to subscribers shall deliver
 573 revenues from the fee to the board within 60 days after the end
 574 of the month in which the fee was billed, together with a
 575 monthly report of the number of service identifiers in each
 576 county. Each wireless provider and other applicable provider
 577 identified in subparagraph (a)4. shall report the number of
 578 service identifiers for subscribers whose place of primary use
 579 is in each county. All provider subscriber information provided
 580 to the board is subject to s. 365.174. If a provider chooses to
 581 remit any fee amounts to the board before they are paid by the
 582 subscribers, a provider may apply to the board for a refund of,
 583 or may take a credit for, any such fees remitted to the board
 584 which are not collected by the provider within 6 months
 585 following the month in which the fees are charged off for
 586 federal income tax purposes as bad debt.

587 (f) The rate of the fee ~~shall be set by the board after~~
 588 ~~considering the factors set forth in paragraphs (h) and (i), but~~

589 may not exceed 50 cents per month for ~~per~~ each service
 590 identifier. Effective on the first day of the month following
 591 180 days after this act takes effect, the fee shall be 46 cents
 592 per month for each service identifier. The fee shall apply
 593 uniformly and be imposed throughout the state, except for those
 594 counties that, before July 1, 2007, had adopted an ordinance or
 595 resolution establishing a fee less than 50 cents per month per
 596 access line. In those counties the fee established by ordinance
 597 may be changed only to the uniform statewide rate no sooner than
 598 30 days after notification is made by the county's board of
 599 county commissioners to the board.

600 ~~(g) It is the intent of the Legislature that all revenue~~
 601 ~~from the fee be used as specified in s. 365.173(2)(a)-(i).~~

602 ~~(g)(h) No later than November 1, 2007, The board may~~
 603 adjust the allocation percentages for distribution of the fund
 604 as provided in s. 365.173. No sooner than 1 year after the fee
 605 is imposed under paragraph (9)(a), the board may adjust the rate
 606 of the fee under paragraph (f) based on the criteria in this
 607 paragraph and paragraph (h). Any adjustment in the rate must be
 608 approved by a two-thirds vote of the total number of E911 board
 609 members. When setting the percentages or ~~and~~ contemplating any
 610 adjustments to the fee, the board shall consider the following:

- 611 1. The revenues currently allocated for wireless service
 612 provider costs for implementing E911 service and projected costs
 613 for implementing E911 service, including recurring costs for
 614 Phase I and Phase II and the effect of new technologies;
- 615 2. The appropriate level of funding needed to fund the
 616 rural grant program provided for in s. 365.173(2)(g); and

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617 3. The need to fund statewide, regional, and county grants
 618 in accordance with sub-subparagraph (6)(a)3.b. and s.
 619 365.173(2)(h).

620 (h) ~~(i)~~ The board may adjust the allocation percentages or
 621 adjust the amount of the fee as provided in paragraph (g), ~~or~~
 622 ~~both~~, if necessary to ensure full cost recovery or prevent
 623 overrecovery of costs incurred in the provision of E911 service,
 624 including costs incurred or projected to be incurred to comply
 625 with the order. Any new allocation percentages or reduced or
 626 increased fee may not be adjusted for 1 year. In no event shall
 627 the fee may not exceed 50 cents per month for per each service
 628 identifier. The board-established fee, and any board adjustment
 629 of the fee, shall be uniform throughout the state, except for
 630 the counties identified in paragraph (f). No less than 90 days
 631 before the effective date of any adjustment to the fee, the
 632 board shall provide written notice of the adjusted fee amount
 633 and effective date to each voice communications services
 634 provider from which the board is then receiving the fee.

635 (i) It is the intent of the Legislature that all revenue
 636 from the fee be used as specified in s. 365.173(2)(a)-(i).

637 (j) State and local taxes do not apply to the fee. The
 638 amount of the E911 fee collected by a provider may not be
 639 included in the base for measuring any tax, fee, surcharge, or
 640 other charge imposed by this state, any political subdivision of
 641 this state, or any governmental agency.

642 (k) A local government may not levy the fee or any
 643 additional fee on providers or subscribers for the provision of
 644 E911 service.

645 (1) For purposes of this section, the definitions
 646 contained in s. 202.11 and the provisions of s. 202.155 apply in
 647 the same manner and to the same extent as the definitions and
 648 provisions apply to the taxes levied under chapter 202 on mobile
 649 communications services.

650 (9) PREPAID WIRELESS E911 FEE.—

651 (a) Effective on the first day of the month following 120
 652 days after this act takes effect, a prepaid wireless E911 fee is
 653 imposed per retail transaction at the rate of 46 cents. In order
 654 to allow sellers of all sizes and technological capabilities
 655 adequate time to comply with this subsection, a seller of
 656 prepaid wireless service operating in this state before the
 657 prepaid wireless E911 fee is imposed shall retain 100 percent of
 658 the fee collected under this paragraph for the first 2 months to
 659 offset the cost of setup.

660 (b) Effective on the first day of the month following 180
 661 days after this act takes effect, the prepaid wireless E911 fee
 662 is imposed per retail transaction at the rate established in
 663 paragraphs (8)(f)-(h) and shall be remitted in accordance with
 664 paragraph (g). In no event shall the fee exceed 50 cents for
 665 each retail transaction. At least 90 days before the effective
 666 date of any adjustment to the fee under paragraph (8)(g), the
 667 Department of Revenue shall provide written notice of the
 668 adjusted fee amount and its effective date to each seller from
 669 which the department is then receiving the fee. At least 120
 670 days before the effective date of any adjustment to the fee
 671 imposed under this subsection, the board shall provide notice to
 672 the Department of Revenue of the adjusted fee amount and

673 effective date of the adjustment.

674 (c) The prepaid wireless E911 fee shall be collected by
 675 the seller from the consumer with respect to each retail
 676 transaction occurring in this state. The amount of the prepaid
 677 wireless E911 fee shall be separately stated on an invoice,
 678 receipt, or other similar document that is provided to the
 679 consumer by the seller or otherwise disclosed to the consumer.

680 (d) For purposes of paragraph (c), a retail transaction
 681 that takes place in person by a consumer at a business location
 682 of the seller shall be treated as occurring in this state if
 683 that business location is in this state. Such transaction is
 684 deemed to have occurred in the county of the business location.
 685 When a retail transaction does not take place at the seller's
 686 business location, the transaction shall be treated as taking
 687 place at the consumer's shipping address or, if no item is
 688 shipped, at the consumer's address or the location associated
 689 with the consumer's mobile telephone number. Such transaction is
 690 deemed to have occurred in the county of the consumer's shipping
 691 address when items are shipped to the consumer or, when no items
 692 are shipped, the county of the consumer's address or the
 693 location associated with the consumer's mobile telephone number.
 694 A transaction for which the specific Florida county cannot be
 695 determined shall be treated as nonspecific.

696 (e) If a prepaid wireless device is sold for a single,
 697 nonitemized price with a prepaid wireless service of 10 minutes
 698 or less or \$5 or less, the seller may elect not to apply the
 699 wireless E911 fee to the transaction.

700 (f) The amount of the prepaid wireless E911 fee that is
 701 collected by a seller from a consumer and that is separately
 702 stated on an invoice, receipt, or similar document provided to
 703 the consumer by the seller, may not be included in the base for
 704 measuring any tax, fee, surcharge, or other charge that is
 705 imposed by this state, any political subdivision of this state,
 706 or any intergovernmental agency.

707 (g) Beginning the month after the fee is imposed under
 708 paragraph (b), each seller shall file a return and remit the
 709 prepaid wireless E911 fees collected in the previous month to
 710 the Department of Revenue on or before the 20th day of the
 711 month. If the 20th day falls on a Saturday, Sunday, or legal
 712 holiday, payments accompanied by returns are due on the next
 713 succeeding day that is not a Saturday, Sunday, or legal holiday
 714 observed by federal or state agencies as defined in chapter 683
 715 and s. 7503 of the Internal Revenue Code of 1986, as amended. A
 716 seller may remit the prepaid wireless E911 fee by electronic
 717 funds transfer and file a fee return with the Department of
 718 Revenue that is initiated through an electronic data
 719 interchange.

720 1. When a seller is authorized by the Department of
 721 Revenue pursuant to s. 212.11(1)(c) or (d) to file a sales and
 722 use tax return on a quarterly, semiannual, or annual reporting
 723 basis, the seller may file a return and remit the prepaid
 724 wireless E911 fees on or before the 20th day of the month
 725 following the authorized reporting period for sales and use tax.

726 2. A seller collecting less than \$50 per month of prepaid
 727 wireless E911 fees may file a quarterly return for the calendar

728 quarters ending in March, June, September, and December. The
 729 seller must file a return and remit the prepaid wireless E911
 730 fees collected during each calendar quarter on or before the
 731 20th day of the month following that calendar quarter.

732 3. A seller must provide the following information on each
 733 prepaid wireless E911 fee return filed with the Department of
 734 Revenue:

735 a. The seller's name, federal identification number,
 736 taxpayer identification number issued by the Department of
 737 Revenue, business location address and mailing address, and
 738 county of the business location in accordance with paragraph
 739 (d);

740 b. The reporting period;

741 c. The number of prepaid wireless services sold during the
 742 reporting period;

743 d. The amount of prepaid wireless E911 fees collected and
 744 the amount of any adjustments to the fees collected;

745 e. The amount of any retailer collection allowance
 746 deducted from the amount of prepaid wireless E911 fees
 747 collected; and

748 f. The amount to be remitted to the Department of Revenue.

749 4. A seller who operates two or more business locations
 750 for which returns are required to be filed with the Department
 751 of Revenue may file a consolidated return reporting and
 752 remitting the prepaid wireless E911 fee for all business
 753 locations. Such sellers must report the prepaid wireless E911
 754 fees collected in each county, in accordance with paragraph (d),
 755 on a reporting schedule filed with the fee return.

756 5. A return is not required for a reporting period when no
 757 prepaid wireless E911 fee is to be remitted for that period.

758 6. The Department of Revenue serves as an agent of the
 759 E911 Board for collection of the prepaid wireless E911 fee, and
 760 the board retains the authority to administer the fee as
 761 provided in this section and s. 365.173.

762 (h) A seller of prepaid wireless services in this state
 763 must register with the Department of Revenue for each place of
 764 business as required by s. 212.18(3) and the Department of
 765 Revenue's administrative rule regarding registration as a sales
 766 and use tax dealer. A separate application is required for each
 767 place of business. A valid certificate of registration issued by
 768 the Department of Revenue to a seller for sales and use tax
 769 purposes is sufficient for purposes of the registration
 770 requirement of this subsection. There is no fee for registration
 771 for remittance of the prepaid wireless service E911 fee.

772 (i) The Department of Revenue shall deposit the funds
 773 remitted under this subsection into the Audit and Warrant
 774 Clearing Trust Fund established in s. 215.199 and retain up to
 775 3.2 percent of the funds remitted under this subsection to
 776 reimburse its direct costs of administering the collection and
 777 remittance of prepaid wireless fees. Thereafter, the Department
 778 of Revenue shall transfer all remaining funds remitted under
 779 this subsection to the Emergency Communications Number E911
 780 System Fund monthly for use as provided in s. 365.173.

781 (j) A seller may retain 5 percent of the prepaid wireless
 782 E911 fees that are collected under paragraph (b) by the seller
 783 from consumers as a retailer collection allowance.

784 (k) A provider or seller of prepaid wireless service is
 785 not liable for damages to any person resulting from or incurred
 786 in connection with providing or failing to provide 911 or E911
 787 service or for identifying or failing to identify the telephone
 788 number, address, location, or name associated with any person or
 789 device that is accessing or attempting to access 911 or E911
 790 service.

791 (l) A provider or seller of prepaid wireless service is
 792 not liable for damages to any person resulting from or incurred
 793 in connection with providing any lawful assistance to any
 794 investigative or law enforcement officer of the United States,
 795 any state, or any political subdivision of any state in
 796 connection with any lawful investigation or other law
 797 enforcement activity by such law enforcement officer.

798 (m) The limitations of liability under this subsection for
 799 providers and sellers are in addition to any other limitation of
 800 liability provided for under this section.

801 (n) A local government may not levy the fee or any
 802 additional fee on providers or sellers of prepaid wireless
 803 service for the provision of E911 service.

804 (o) For purposes of this section, the state and local
 805 governments are not consumers.

806 (p) For purposes of this subsection, the term:

807 1. "Consumer" means a person who purchases prepaid
 808 wireless service in a retail sale.

809 2. "Prepaid wireless E911 fee" means the fee that is
 810 required to be collected by a seller from a consumer as provided
 811 in this subsection.

812 3. "Provider" means a person that provides prepaid
 813 wireless service pursuant to a license issued by the Federal
 814 Communications Commission.

815 4. "Retail transaction" means the purchase by a consumer
 816 from a seller of prepaid wireless service that may be applied to
 817 a single service identifier for use by the consumer. If a
 818 consumer makes a purchase of multiple prepaid wireless services
 819 in a single transaction, each individual prepaid wireless
 820 service shall be considered a separate retail transaction for
 821 purposes of calculating the prepaid wireless E911 fee.

822 5. "Seller" means a person who makes retail sales of
 823 prepaid wireless services to a consumer.

824 (10)(9) AUTHORIZED EXPENDITURES OF E911 FEE.—

825 (a) For purposes of this section, E911 service includes
 826 the functions of database management, call taking, ~~dispatching,~~
 827 location verification, and call transfer. Department of Health
 828 certification and recertification and training costs for 911
 829 public safety telecommunications, including dispatching, are
 830 functions of 911 services.

831 (b) All costs directly attributable to the establishment
 832 or provision of E911 service and contracting for E911 services
 833 are eligible for expenditure of moneys derived from imposition
 834 of the fee authorized by this section. These costs include the
 835 acquisition, implementation, and maintenance of Public Safety
 836 Answering Point (PSAP) equipment and E911 service features, as
 837 defined in the providers' published schedules ~~Public Service~~
 838 ~~Commission's lawfully approved 911 and E911 and related tariffs~~
 839 or the acquisition, installation, and maintenance of other E911

840 equipment, including: circuits; call answering equipment;~~;~~ call
 841 transfer equipment;~~;~~ ANI or ALI controllers;~~;~~ ~~ALI controllers~~,
 842 ANI or ALI displays;~~;~~ ~~ALI displays~~, station instruments;~~;~~ E911
 843 telecommunications systems;~~;~~ visual call information and storage
 844 devices;~~;~~ recording equipment;~~;~~ telephone devices and other
 845 equipment for the hearing impaired used in the E911 system;~~;~~
 846 PSAP backup power systems;~~;~~ consoles;~~;~~ automatic call
 847 distributors, and interfaces, including hardware and software,
 848 for computer-aided dispatch (CAD) systems;~~;~~ integrated CAD
 849 systems for that portion of the systems used for E911 call
 850 taking; GIS system and software equipment and information
 851 displays; network clocks;~~;~~ salary and associated expenses for
 852 E911 call takers for that portion of their time spent taking and
 853 transferring E911 calls, salary, and associated expenses for a
 854 county to employ a full-time equivalent E911 coordinator
 855 position and a full-time equivalent mapping or geographical data
 856 position, and technical system maintenance, database, and
 857 administration personnel ~~and a staff assistant position per~~
 858 ~~county~~ for the portion of their time spent administrating the
 859 E911 system; emergency medical, fire, and law enforcement
 860 prearrival instruction software; charts and training costs;~~;~~
 861 training costs for PSAP call takers, supervisors, and managers
 862 in the proper methods and techniques used in taking and
 863 transferring E911 calls;~~;~~ costs to train and educate PSAP
 864 employees regarding E911 service or E911 equipment, including
 865 fees collected by the Department of Health for the certification
 866 and recertification of 911 public safety telecommunicators as
 867 required under s. 401.465;~~;~~ and expenses required to develop and

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868 maintain all information, including ALI and ANI databases and
 869 other information source repositories, necessary to properly
 870 inform call takers as to location address, type of emergency,
 871 and other information directly relevant to the E911 call-taking
 872 and transferring function. Moneys derived from the fee may also
 873 be used for next-generation E911 network services, next-
 874 generation E911 database services, next-generation E911
 875 equipment, and wireless E911 routing systems.

876 (c) The moneys may not be used to pay for any item not
 877 listed in this subsection, including, but not limited to, any
 878 capital or operational costs for emergency responses which occur
 879 after the call transfer to the responding public safety entity
 880 and the costs for constructing, leasing, maintaining, or
 881 renovating buildings, except for those building modifications
 882 necessary to maintain the security and environmental integrity
 883 of the PSAP and E911 equipment rooms.

884 Section 2. Effective on the date that the prepaid wireless
 885 E911 fee is imposed and remitted to the state under section
 886 365.172(9)(b), Florida Statutes, as amended by this act, section
 887 365.173, Florida Statutes, is amended to read:

888 365.173 Emergency Communications Number E911 System Fund.—

889 (1) REVENUES.—

890 (a) All Revenues derived from the fee levied on
 891 subscribers under s. 365.172(8) must be paid by the board into
 892 the State Treasury on or before the 15th day of each month. Such
 893 moneys must be accounted for in a special fund to be designated
 894 as the Emergency Communications Number E911 System Fund, a fund
 895 created in the Technology Program, or other office as designated

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896 by the Secretary of Management Services.7

897 (b) Revenues derived from the fee levied on prepaid
 898 wireless service under s. 365.172(9), less the costs of
 899 administering collection of the fee, must be transferred by the
 900 Department of Revenue to the Emergency Communications Number
 901 E911 System Fund on or before the 25th day of each month
 902 following the month of receipt. and,

903 (c) For accounting purposes, the Emergency Communications
 904 Number E911 System Fund must be segregated into three ~~two~~
 905 separate categories:

- 906 1. ~~(a)~~ The wireless category; and
- 907 2. ~~(b)~~ The nonwireless category; and
- 908 3. The prepaid wireless category.

909 (d) All moneys must be invested by the Chief Financial
 910 Officer pursuant to s. 17.61. All moneys in such fund are to be
 911 expended by the office for the purposes provided in this section
 912 and s. 365.172. These funds are not subject to s. 215.20.

913 (2) DISTRIBUTION AND USE OF FUNDS.—As determined by the
 914 board pursuant to s. 365.172(8)(g) ~~s. 365.172(8)(h)~~, and subject
 915 to any modifications approved by the board pursuant to s.
 916 365.172(6)(a)3. or (8)(h) ~~(8)(i)~~, the moneys in the fund shall
 917 be distributed and used only as follows:

918 (a) Seventy-six ~~Sixty-seven~~ percent of the moneys in the
 919 wireless category shall be distributed each month to counties,
 920 based on the total number of service identifiers in each county,
 921 and shall be used exclusively for payment of:

- 922 1. Authorized expenditures, as specified in s. 365.172(10)
 923 ~~s. 365.172(9)~~.

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924 2. Costs to comply with the requirements for E911 service
 925 contained in the order and any future rules related to the
 926 order.

927 (b) Ninety-six ~~Ninety-seven~~ percent of the moneys in the
 928 nonwireless category shall be distributed each month to counties
 929 based on the total number of service identifiers in each county
 930 and shall be used exclusively for payment of authorized
 931 expenditures, as specified in s. 365.172(10) ~~s. 365.172(9)~~.

932 (c) Sixty-one percent of the moneys in the prepaid
 933 wireless category shall be distributed each month to counties
 934 based on the total amount of fees reported and paid in each
 935 county and shall be used exclusively for payment of authorized
 936 expenditures, as specified in s. 365.172(10). The moneys from
 937 prepaid wireless fees identified as nonspecific in accordance
 938 with s. 365.172(9) shall be distributed as determined by the
 939 E911 Board.

940 ~~(d)(e)~~ Any county that receives funds under paragraphs
 941 (a), and (b), and (c) shall establish a fund to be used
 942 exclusively for the receipt and expenditure of the revenues
 943 collected under paragraphs (a), and (b), and (c). All fees
 944 placed in the fund and any interest accrued shall be used solely
 945 for costs described in subparagraphs (a)1. and 2. and may not be
 946 reduced, withheld, or allocated for other purposes. The money
 947 collected and interest earned in this fund shall be appropriated
 948 for these purposes by the county commissioners and incorporated
 949 into the annual county budget. The fund shall be included within
 950 the financial audit performed in accordance with s. 218.39. The
 951 financial audit shall assure that all E911 fee revenues,

952 interest, and E911 grant funding are used for payment of
 953 authorized expenditures, as specified in s. 365.172(10) and as
 954 specified in the E911 Board grant and special disbursement
 955 programs. The county is responsible for all expenditures of
 956 revenues distributed from the county E911 fund and shall submit
 957 the financial audit reports to the board for review. A county
 958 may carry forward up to 30 percent of the total funds disbursed
 959 to the county by the board during a county fiscal calendar year
 960 for expenditures for capital outlay, capital improvements, ~~or~~
 961 equipment replacement, or implementation of a hosted system if
 962 such expenditures are made for the purposes specified in
 963 subparagraphs (a)1. and 2.; however, the 30-percent limitation
 964 does not apply to funds disbursed to a county under s.
 965 365.172(6)(a)3., and a county may carry forward any percentage
 966 of the funds, except that any grant provided shall continue to
 967 be subject to any condition imposed by the board. In order to
 968 prevent an excess recovery of costs incurred in providing E911
 969 service, a county that receives funds greater than the
 970 permissible E911 costs described in s. 365.172(10) ~~s.~~
 971 ~~365.172(9)~~, including the 30-percent carryforward allowance,
 972 must return the excess funds to the E911 board to be allocated
 973 under s. 365.172(6)(a).

974 (e)(d) Twenty ~~Thirty~~ percent of the moneys in the wireless
 975 category shall be distributed to wireless providers in response
 976 to sworn invoices submitted to the board by wireless providers
 977 to reimburse such wireless providers for the actual costs
 978 incurred to provide 911 or E911 service, including the costs of
 979 complying with the order. Such costs include costs and expenses

980 incurred by wireless providers to design, purchase, lease,
 981 program, install, test, upgrade, operate, and maintain all
 982 necessary data, hardware, and software required to provide E911
 983 service. Each wireless provider shall submit to the board, by
 984 August 1 of each year, a detailed estimate of the capital and
 985 operating expenses for which it anticipates that it will seek
 986 reimbursement under this paragraph during the ensuing state
 987 fiscal year. In order to be eligible for recovery during any
 988 ensuing state fiscal year, a wireless provider must submit all
 989 sworn invoices for allowable purchases made within the previous
 990 calendar year no later than March 31 of the fiscal year. By
 991 September 15 of each year, the board shall submit to the
 992 Legislature its legislative budget request for funds to be
 993 allocated to wireless providers under this paragraph during the
 994 ensuing state fiscal year. The budget request shall be based on
 995 the information submitted by the wireless providers and
 996 estimated surcharge revenues. Distributions of moneys in the
 997 fund by the board to wireless providers must be fair and
 998 nondiscriminatory. If the total amount of moneys requested by
 999 wireless providers pursuant to invoices submitted to the board
 1000 and approved for payment exceeds the amount in the fund in any
 1001 month, wireless providers that have invoices approved for
 1002 payment shall receive a pro rata share of moneys in the fund and
 1003 the balance of the payments shall be carried over to the
 1004 following month or months until all of the approved payments are
 1005 made. The board may adopt rules necessary to address the manner
 1006 in which pro rata distributions are made when the total amount
 1007 of funds requested by wireless providers pursuant to invoices

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1008 submitted to the board exceeds the total amount of moneys on
 1009 deposit in the fund.

1010 ~~(c) Notwithstanding paragraphs (a) and (d), the amount of~~
 1011 ~~money that remained in the wireless 911 system fund on December~~
 1012 ~~31, 2006, must be disbursed to wireless providers for the~~
 1013 ~~recovery of allowable costs incurred in previous years ending~~
 1014 ~~December 31, 2006, and in accordance with paragraph (d). In~~
 1015 ~~order to be eligible for recovered costs incurred under~~
 1016 ~~paragraph (d), a wireless provider must submit sworn invoices to~~
 1017 ~~the board by December 31, 2007. The board must disburse the~~
 1018 ~~designated funds in the wireless 911 system fund on or after~~
 1019 ~~January 1, 2008.~~

1020 (f) One percent of the moneys in each category of the fund
 1021 shall be retained by the board to be applied to costs and
 1022 expenses incurred for the purposes of managing, administering,
 1023 and overseeing the receipts and disbursements from the fund and
 1024 other activities as defined in s. 365.172(6). Any funds retained
 1025 for such purposes in a calendar year which are not applied to
 1026 such costs and expenses by March 31 of the following year shall
 1027 be redistributed as determined by the board.

1028 (g) Three ~~Two~~ percent of the moneys in each category of
 1029 the fund shall be used to make monthly distributions to rural
 1030 counties for the purpose of providing facilities and network and
 1031 service enhancements and assistance for the 911 or E911 systems
 1032 operated by rural counties and for the provision of grants by
 1033 the office to rural counties for upgrading and replacing E911
 1034 systems.

1035 (h) Thirty-five percent of the moneys in the prepaid

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1036 wireless category shall be retained by the board to provide
 1037 state E911 grants to be awarded in accordance with the following
 1038 order of priority:

1039 1. For all large, medium, and rural counties to upgrade or
 1040 replace E911 systems.

1041 2. For all large, medium, and rural counties to develop
 1042 and maintain statewide 911 routing, geographic, and management
 1043 information systems.

1044 3. For all large, medium, and rural counties to develop
 1045 and maintain next-generation 911 services and equipment. By
 1046 September 1, 2007, up to \$15 million of the existing 911 system
 1047 fund shall be available for distribution by the board to the
 1048 counties in order to prevent a loss in the ordinary and expected
 1049 time value of money caused by any timing delay in remittance to
 1050 the counties of wireline fees caused by the one-time transfer of
 1051 collecting wireline fees by the counties to the board. All
 1052 disbursements for this purpose must be returned to the fund from
 1053 the future remittance by the nonwireless category.

1054 (i) If the wireless category has funds remaining in it on
 1055 December 31 after disbursements have been made during the
 1056 calendar year immediately prior to December 31, the board may
 1057 disburse the excess funds in the wireless category in accordance
 1058 with s. 365.172(6)(a)3.b.

1059 (3) The Legislature recognizes that the fee authorized
 1060 under s. 365.172 may not necessarily provide the total funding
 1061 required for establishing or providing the E911 service. It is
 1062 the intent of the Legislature that all revenue from the fee be
 1063 used as specified in ~~this~~ subsection (2).

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1064 Section 3. Paragraph (a) of subsection (2) of section
 1065 401.465, Florida Statutes, is amended to read:
 1066 401.465 911 public safety telecommunicator certification.—
 1067 (2) PERSONNEL; STANDARDS AND CERTIFICATION.—
 1068 (a) Effective October 1, 2012, any person employed as a
 1069 911 public safety telecommunicator at a public safety answering
 1070 point, as defined in s. 365.172(3) ~~s. 365.172(3)(a)~~, must be
 1071 certified by the department.

1072 Section 4. The Division of Law Revision and Information is
 1073 directed to replace the phrase "on the first day of the month
 1074 following 120 days after this act takes effect" or the phrase
 1075 "on the first day of the month following 180 days after this act
 1076 takes effect" wherever it occurs in this act with the respective
 1077 date.

1078 Section 5. For the 2014-2015 fiscal year, the nonrecurring
 1079 sum of \$500,000 is appropriated from the General Revenue Fund to
 1080 the Department of Revenue for the purposes of administering this
 1081 act.

1082 Section 6. Except as otherwise expressly provided in this
 1083 act, this act shall take effect upon becoming a law.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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



1 Committee/Subcommittee hearing bill: Finance & Tax Subcommittee
 2 Representative Steube offered the following:

Amendment

3
 4
 5 Remove lines 1079-1080 and insert:
 6 sum of \$150,000 is appropriated from the General Revenue Fund to
 7 the Department of Revenue for the purposes of administering this
 8 act. For the 2014-2015 fiscal year, the recurring sum of
 9 \$290,713 is appropriated from the Operating Trust Fund to the
 10 Department of Revenue for the purposes of administering this
 11

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 343 Rental Car Surcharge
SPONSOR(S): Nuñez
TIED BILLS: IDEN./SIM. **BILLS:** SB 484

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	10 Y, 2 N, As CS	Johnson	Miller
2) Finance & Tax Subcommittee		Flieger 	Langston 
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Section 212.0606(1), F.S., provides that a surcharge of \$2 per day, or part of a day, is imposed upon the lease or rental of a motor vehicle for hire and designed to carry less than nine passengers regardless of whether the motor vehicle is licensed in Florida. The surcharge applies to the first 30 days of the term of any lease or rental and is subject to all taxes imposed by ch. 212, F.S.

The bill creates s. 212.0606(5), F.S., providing that if a member of a car-sharing service uses a motor vehicle pursuant to an agreement with a car-sharing service for less than 24 hours, in lieu of the daily rental car surcharge, a surcharge of 8 cents per hour of usage is imposed.

The bill defines "car-sharing service" as a membership based organization or business or division thereof which requires the payment of an application or membership fee and provides member access to motor vehicles:

- Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;
- Twenty-four hours per day, seven days per week;
- Only through automated means, which may include, but are not limited to, smartphone applications or electronic membership cards;
- On hourly or shorter increments;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car sharing service or its affiliates.

The bill provides that the lease, rental, or usage of a motor vehicle from an airport location is not eligible for the imposition of the surcharge for car-sharing services in lieu of the standard rental car surcharge.

The Revenue Estimating Conference has not yet evaluated this committee substitute, but has evaluated a similar version of the bill with an earlier effective date. Staff estimates that in FY 2014-15 the bill will have a negative insignificant impact on General Revenue (-\$0.1 million recurring), -\$0.3 million on state trust funds (-\$0.6 million recurring), and a negative insignificant impact on local government.

The bill has an effective date of January 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Rental Car Surcharge

Section 212.0606(1), F.S., imposes a surcharge of \$2.00 per day or any part of a day upon the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers, regardless of whether the vehicle is licensed in Florida. The surcharge is included in the lease or rental price on which sales tax is computed and must be listed separately on the invoice. Businesses that collect rental car surcharge are required to report surcharge collections according to the county to which the surcharge was attributed.

The surcharge only applies to the first 30 days of the term of any lease or rental. If the lease is renewed, the first 30 days of the renewed lease is subject to the surcharge. If payment for the lease or rental of a motor vehicle is made in Florida, the surcharge applies. The surcharge is not imposed on leases or rentals to tax-exempt entities. Section 216.0606(4), F.S., exempts from payment of the surcharge a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

After deduction for administrative fees and the General Revenue Service Charge, the rental car surcharge is distributed as follows:

- 80 percent to the State Transportation Trust Fund (STTF);
- 15.75 percent to the Tourism Promotional Trust Fund; and
- 4.25 percent to the Florida International Trade and Promotion Trust Fund.

The proceeds of the rental car surcharge deposited into the STTF are allocated to each Department of Transportation (DOT) district for transportation projects, based on the amount of proceeds collected in the counties within each respective district.

Car-Sharing Services

Car-sharing is generally marketed as an alternative to conventional car rental or car ownership and exists in a number of forms.

“Traditional carsharing provides members access to a vehicle for short-term daily use. Automobiles owned or leased by a carsharing operator are distributed throughout a network; members access the vehicles with a reservation and are charged per time and often per mile....

Traditional carsharing is intended for short trips and as a supplement to public transit. Initial market entry in North America focused on the neighborhood carsharing model, characterized by a fleet of shared-use vehicles parked in designated areas throughout a neighborhood or municipality. In recent years, business models have advanced and diversified. Variations on the neighborhood model developed in North America include: business; college/university; government/institutional fleet; and public transit (carsharing provided at public transit stations or multi-modal nodes). Despite differences in target markets, these models share a similar organizational structure, capital ownership, and revenue stream.

The next generation of shared-use vehicle services, which provide access to a fleet of shared-use vehicles, incorporates new concepts, technologies, and operational methods. These models represent innovative solutions and notable advances. They include one-way carsharing and personal vehicle sharing. One-way carsharing, also known as “free-floating” carsharing, frees

users from the restriction of having to return a vehicle to the same location from which it was accessed. Instead, users leave vehicles parked at any spot within the organization's operating area, allowing for the possibility of one-way trips. The one-way model resembles more traditional forms of carsharing—except for the logistics of vehicle redistribution and the need for expanded vehicle parking.

Personal vehicle sharing ... represents a more distinct model due to differences in organizational structure, capital stock, and liability. Personal vehicle sharing involves short-term access to privately-owned vehicles, enabling a lower operating cost and a wider vehicle distribution. ..."¹

While car sharing began at the local, grassroots level, car-sharing services are now also provided by conventional rental car companies, such as Avis, Enterprise, and Hertz.²

Current Practice Relating to Surcharge

On September 17, 2012, the Department of Revenue (DOR) issued Technical Assistance Advisement 12A-022 in which the question presented to DOR was whether a member based car-sharing service is subject to the Florida rental car surcharge. The facts presented to DOR were as follows:

"Taxpayer [the car-sharing service] offers a member based car-sharing service with a fleet of vehicles available for use by registered members at any time of the day, seven days a week. A member can reserve a vehicle before use, or simply locate one and access it. Each use is labeled as a "trip" and can last up to four consecutive days. A unique feature of Taxpayer's car-sharing service is members may, and often do, use a car for a much shorter period of time than typical car rentals. According to Taxpayer, the typical trip lasts twenty-five to 40 minutes, costing between \$7 and \$10 before taxes. Members are invoiced daily for all trips that occur and Taxpayer adds the rental car surcharge and sales tax to this invoice."

First noting taxpayer's assertion that it is not engaged in the "traditional" rental of cars, DOR concluded that the taxpayer is clearly renting cars, is engaged in the rental of motor vehicles and, therefore, the rental car surcharge does apply. DOR further cited its rule, Fla. Admin. Code 12A-16.002(3)(b): "When the terms of a lease or rental agreement authorize the lessee to extend the lease or rental beyond the initial lease term without executing an additional lease or agreement and without any action on the part of the lessor, the extension period will not be considered a new lease or rental."

Highlighting the fact that the taxpayer's members may make multiple trips in one day without executing any additional agreement and without any action required of the taxpayer, and that members are charged for every trip within the same twenty-four hour period on a single daily invoice, DOR concluded that the rental car "surcharge is due from Taxpayer's members once a day, regardless of the number of trips taken by a member in a twenty-four hour period." Therefore, car-sharing services must pay the \$2.00 surcharge per day for each member who uses the car-sharing service that day.

It should be noted that use of car-sharing services is also subject to the state's sales and use tax.

Proposed Changes

The bill creates s. 212.0606(5), F.S., providing that if a member of a car-sharing service uses a motor vehicle pursuant to an agreement with a car-sharing service for less than 24 hours, in lieu of the daily rental car surcharge³ a surcharge of 8 cents per hour of usage is imposed. Any fraction of an hour is to be rounded up to the nearest whole hour for purposes of calculating the surcharge. If a member of a

¹ Shaheen, Susan, Mark Mallery, and Karly Kingsley (2012). "Personal Vehicle Sharing Services in North America," *Research in Transportation Business & Management*, Vol. 3, pp.71-81.

² Kell, John, Jan. 2, 2013, "Avis to Buy Car-Sharing Service Zipcar," *The Wall Street Journal*.

³ This surcharge is imposed pursuant to s. 212.0606(1), F.S.

car-sharing service uses the same motor vehicle for 24 consecutive hours or more, the usual surcharge of \$2 per day or any part of a day shall be imposed.

The bill defines "car-sharing service" as a membership based organization or business or division thereof which requires the payment of an application or membership fee and provides member access to motor vehicles:

- Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;
- Twenty-four hours per day, seven days per week;
- Only through automated means, which may include, but are not limited to, smartphone applications or electronic membership cards;
- On hourly or shorter increments;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car sharing service or its affiliates.

The bill provides that the lease, rental, or usage of a motor vehicle for a location owned, operated, or leased by of for the benefit of an airport or airport authority is not eligible for the imposition of the surcharge for car-sharing services in lieu of the standard rental car surcharge.

The bill has an effective date of January 1, 2015.

B. SECTION DIRECTORY:

Section 1 Amends s. 212.0606, F.S., relating to the rental car surcharge.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has not yet evaluated this committee substitute, but has evaluated a similar version of the bill with an earlier effective date. Staff estimates that this committee substitute will have a negative insignificant cash impact on General Revenue in the first year of implementation (2014-15) and a recurring impact of -\$0.1 million to General Revenue when fully implemented. The impact to state trust funds is expected to be approximately -\$0.3 million in 2014-15 and -\$0.6 million on a recurring basis.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not yet evaluated this committee substitute, but has evaluated a similar version of the bill with an earlier effective date. Staff estimates that this committee substitute will have a negative insignificant cash impact on local government revenues in the first year of implementation (2014-15) and on a recurring basis when fully implemented.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons using car-sharing services for less than a 24-hour period will see a reduction in the rental car surcharge that they will pay.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces the revenues from discretionary sales taxes levied by local governments; however, an exemption may apply as the negative impact to local governments is expected to be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOR may need to revise its rules regarding the rental car surcharge⁴ to conform to provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2015, the Transportation & Highway Safety Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment changed the effective date of the bill from July 1, 2014, to January 1, 2015.

This analysis is written to the committee substitute.

⁴ Ch. 12A-16, F.A.C.
STORAGE NAME: h0343b.FTSC
DATE: 2/17/2014

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1 A bill to be entitled
 2 An act relating to the rental car surcharge; amending
 3 s. 212.0606, F.S.; providing an alternative rental car
 4 surcharge rate for use of a motor vehicle pursuant to
 5 an agreement with a car-sharing service for less than
 6 a specified number of hours; defining the term "car-
 7 sharing service"; providing for applicability;
 8 providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsection (1) of section 212.0606, Florida
 13 Statutes, is amended, and subsection (5) is added to that
 14 section, to read:

15 212.0606 Rental car surcharge.—

16 (1) A surcharge of \$2 ~~\$2.00~~ per day or any part of a day
 17 is imposed upon the lease or rental of a motor vehicle licensed
 18 for hire and designed to carry less than nine passengers
 19 regardless of whether such motor vehicle is licensed in Florida.
 20 The surcharge applies to only the first 30 days of the term of
 21 any lease or rental. The surcharge is subject to all applicable
 22 taxes imposed by this chapter.

23 (5) Notwithstanding subsection (1), if a member of a car-
 24 sharing service uses a motor vehicle pursuant to an agreement
 25 with a car-sharing service for less than 24 hours, in lieu of
 26 the surcharge imposed under subsection (1), a surcharge of 8

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27 cents per hour of usage is imposed. Any fraction of an hour
28 shall be rounded up to the nearest whole hour for purposes of
29 calculating the surcharge. If a member of a car-sharing service
30 uses the same motor vehicle for 24 consecutive hours or more,
31 the surcharge of \$2 per day or any part of a day shall be
32 imposed pursuant to subsection (1). For purposes of this
33 subsection, the term "car-sharing service" means a membership-
34 based organization or business or division thereof which
35 requires the payment of an application or membership fee and
36 provides member access to motor vehicles:

37 (a) Only at locations that are not staffed by car-sharing
38 service personnel employed solely for the purpose of interacting
39 with car-sharing service members;

40 (b) Twenty-four hours per day, 7 days per week;

41 (c) Only through automated means, which may include, but
42 are not limited to, smartphone applications or electronic
43 membership cards;

44 (d) On hourly or shorter increments;

45 (e) Without a separate fee for refueling the motor
46 vehicle;

47 (f) Without a separate fee for minimum financial
48 responsibility liability insurance; and

49 (g) Owned or controlled by the car-sharing service or its
50 affiliates.

51
52 The lease, rental, or usage of a motor vehicle from a location

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53 | owned, operated, or leased by or for the benefit of an airport
54 | or airport authority is not eligible for imposition of the
55 | surcharge under this subsection in lieu of the surcharge imposed
56 | under subsection (1).

57 | Section 2. This act shall take effect January 1, 2015.