



Finance and Tax Committee

Wednesday, February 3, 2016

11:30 a.m. – 2:30 p.m.

Morris Hall

MEETING PACKET

The Florida House of Representatives

Finance and Tax Committee



Steve Crisafulli
Speaker

Matt Gaetz
Chair

AGENDA

February 3, 2016
11:30 a.m. – 2:30 p.m.
Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. **Consideration on the following bills:**
 - HB 501 Conservation Easements by McGhee
 - CS/HB 627 Community Contribution Tax Credits by Economic Development & Tourism Subcommittee, Moraitis
 - PCS for HB 775 -- An act relating to Emergency Preparedness and Response
 - CS/HB 785 St. Lucie County Fire District, St. Lucie County by Local Government Affairs Subcommittee, Lee
 - CS/HB 791 Local Tax Referenda by Local Government Affairs Subcommittee, Ingoglia
 - CS/HB 895 West Manatee Fire and Rescue District, Manatee County by Local Government Affairs Subcommittee, Boyd
 - HB 1039 Babcock Ranch Community Independent Special District, Charlotte and Lee Counties by Caldwell
 - CS/HB 1071 South Broward Hospital District, Broward County by Local Government Affairs Subcommittee, Stark
 - HB 1201 Homestead Tax Exemptions by Moskowitz, Cortes, B.
- IV. **Consideration of the following proposed committee bill(s):**
 - PCB FTC 16-04 -- Taxation
- V. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 501 Conservation Easements
SPONSOR(S): McGhee
TIED BILLS: IDEN./SIM. BILLS: CS/SB 190

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	12 Y, 0 N	Moore	Harrington
2) Finance & Tax Committee		Dugan <i>KJ</i>	Langston <i>JS</i>
3) State Affairs Committee			

SUMMARY ANALYSIS

Conservation easements are perpetual, undivided interests in property that are created or stated in a restriction, easement, covenant, or condition in any deed, will, or other instrument executed by or on behalf of the property owner, or in any order of taking. They must be recorded and indexed in the same manner as any other instrument affecting the title to real property. Recording of the conservation easement gives notice to the property appraiser and tax collector of the conservation easement. Land that is dedicated in perpetuity for conservation purposes and that is used exclusively for conservation purposes is exempt from ad valorem taxation.

Once an original application for tax exemption has been granted for real property dedicated in perpetuity for conservation purposes, the property appraiser must mail a renewal application to the property owner, on or before February 1, in each succeeding year. The property owner must certify on the form that the use of the property complies with the restrictions and requirements of the conservation easement. The exemption will not be renewed unless the application is returned to the property appraiser.

The bill provides that once an original application for an ad valorem tax exemption for property subject to a perpetual conservation easement has been granted, the property owner is not required to file a renewal application until the use of the property no longer complies with the restrictions and requirements of the conservation easement.

The bill is effective July 1, 2016.

The Revenue Estimating Conference determined this bill has no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Conservation Easements

A conservation easement is a right or interest in real property which is appropriate for:

- Retaining land or water areas predominantly in their natural, scenic, open, agricultural, or wooded condition;
- Retaining such areas as suitable habitat for fish, plants, or wildlife;
- Retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; or
- Maintaining existing land uses.¹

A conservation easement must prohibit or limit any or all of the following:

- Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- Removal or destruction of trees, shrubs, or other vegetation;
- Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;
- Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;
- Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation;
- Acts or uses detrimental to such retention of land or water areas; or
- Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.²

Conservation easements are acquired in the same manner as other property interests, with the exception of condemnation or eminent domain proceedings.³ Condemnation or eminent domain proceedings involving lands with a conservation easement are allowed if it is for the construction or operation of linear facilities (e.g., electric, telecommunication, or pipeline transmission lines and distribution facilities, public transportation corridors).⁴ Conservation easements may be acquired by any governmental body or agency or by a charitable corporation or trust whose purposes include protecting natural, scenic, or open space values of real property; assuring its availability for agricultural, forest, recreational, or open space use; protecting natural resources; maintaining or enhancing air or water quality; or preserving sites or properties of historical, architectural, archaeological, or cultural significance.⁵

Conservation easements are perpetual, undivided interests in property that are created or stated in a restriction, easement, covenant, or condition in any deed, will, or other instrument executed by or on behalf of the property owner, or in any order of taking.⁶ They must be recorded and indexed in the

¹ Section 704.06(1), F.S.

² *Id.*

³ Section 704.06(2), F.S.

⁴ Section 704.06(11), F.S.

⁵ Section 704.06(3), F.S.

⁶ Section 704.06(2), F.S.

same manner as any other instrument affecting the title to real property.⁷ Recording of the conservation easement gives notice to the property appraiser and tax collector of the conservation easement.⁸

Ad Valorem Taxes – Generally

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,⁹ and it provides for specified assessment limitations, property classifications and exemptions.¹⁰ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.¹¹

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.¹²

Ad Valorem Tax Exemption for Real Property Dedicated in Perpetuity for Conservation Purposes

In November 2008, Florida's voters amended the Florida Constitution to provide an ad valorem tax exemption for real property dedicated in perpetuity for conservation purposes, including real property encumbered by perpetual conservation easements or by other perpetual conservation protections, as defined by general law.¹³

Land that is dedicated in perpetuity¹⁴ for conservation purposes¹⁵ and that is used exclusively for conservation purposes is exempt from ad valorem taxation.¹⁶ Additionally, land that is dedicated in perpetuity for conservation purposes and that is used for allowed commercial uses¹⁷ is exempt from ad valorem taxation up to 50 percent of the assessed value of the land.¹⁸ If the allowed commercial use includes agriculture, the use must comply with the most recent best management practices adopted by the Department of Agriculture and Consumer Services.¹⁹

If the land is less than 40 contiguous acres, the exemption will not apply unless the Acquisition and Restoration Council (ARC)²⁰ determines the use of the land for conservation purposes fulfills a clearly

⁷ Section 704.06(5), F.S.

⁸ Section 704.06(7), F.S.

⁹ Fla. Const. art. VII, s. 4.

¹⁰ Fla. Const. art. VII, ss. 3, 4, and 6.

¹¹ Section 196.031, F.S.

¹² *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

¹³ Fla. Const. art. VII, s. 3(f).

¹⁴ "Dedicated in perpetuity" is defined in s. 196.26(1)(d), F.S., to mean the land is encumbered by an irrevocable, perpetual conservation easement.

¹⁵ "Conservation purposes" is defined in s. 196.26(1)(c), F.S., as:

1. Serving a conservation purpose, as defined in 26 U.S.C. s. 170(h)(4)(A)(i)-(iii), for land which serves as the basis of a qualified conservation contribution under 26 U.S.C. s. 170(h); or

2.a. Retention of the substantial natural value of land, including woodlands, wetlands, watercourses, ponds, streams, and natural open spaces;

b. Retention of such lands as suitable habitat for fish, plants, or wildlife; or

c. Retention of such lands' natural value for water quality enhancement or water recharge.

¹⁶ Section 196.26(2), F.S.

¹⁷ "Allowed commercial uses" is defined in s. 196.26(1)(a), F.S., as commercial uses that are allowed by the conservation easement encumbering the land.

¹⁸ Section 196.26(3), F.S.

¹⁹ Section 196.26(7), F.S.

²⁰ The ARC is created in s. 259.035, F.S.

delineated state conservation policy and yields a significant public benefit.²¹ The ARC, in making its public benefit determination, must give particular consideration to land that:

- Contains a natural sinkhole or natural spring that serves a water recharge or production function;
- Contains a unique geological feature;
- Provides habitat for endangered or threatened species;
- Provides nursery habitat for marine and estuarine species;
- Provides protection or restoration of vulnerable coastal areas;
- Preserves natural shoreline habitat; or
- Provides retention of natural open space in otherwise densely built-up areas.²²

The ARC maintains a list of nonprofit entities that are qualified to enforce the provisions of the conservation easement.²³

Conservation easements must include baseline documentation regarding the natural values to be protected on the land and may include a management plan that details the management of the land to effectuate the conservation of natural resources on the land, unless the land needs approval from the ARC.²⁴ Lands approved by the ARC must have a management plan and a designated manager for implementing the management plan.²⁵

Buildings, structures, and other improvements on land receiving the exemption and the land area immediately surrounding the buildings, structures, and improvements must be assessed separately under ch. 193, F.S.²⁶ Structures and other improvements that are auxiliary to the use of the land for conservation purposes are exempt to the same extent as the underlying land.²⁷

Ad Valorem Tax Exemption Application and Annual Renewal Application

Generally, Florida requires that every person entitled to an ad valorem exemption annually apply with the property appraiser before March 1, listing and describing the property for which the exemption is claimed and certifying its ownership and use;²⁸ however, there are exceptions. For instance, certain types of properties are exempt from the annual application,²⁹ a property appraiser may modify the annual application requirement in some situations,³⁰ and a county may waive the annual application requirement for most exemptions.³¹ Applications filed after the first year the exemption is granted are referred to as "renewal applications."³² Failure to timely file a required application constitutes a waiver of the exemption for that year.³³

Florida currently requires annual application for the ad valorem exemption for property subject to a perpetual conservation easement.³⁴ Property owners must apply by March 1.³⁵ Once an original

²¹ Section 196.26(4), F.S.

²² *Id.*

²³ Section 196.26(9), F.S.

²⁴ Section 196.26(5), F.S.

²⁵ Section 196.26(4), F.S.

²⁶ Section 196.26(6), F.S.

²⁷ *Id.*

²⁸ Section 196.011(1), F.S.

²⁹ Section 196.011(3), F.S.

³⁰ Section 196.011(4), F.S.

³¹ Section 196.011(9)(a), F.S.

³² *See s.* 196.011(6), F.S.

³³ Section 196.011(1), F.S.

³⁴ Section 196.011(6)(b).

³⁵ *Id.*

application,³⁶ the property appraiser must mail a renewal application³⁷ to the property owner, on or before February 1, in each succeeding year.³⁸ The property owner must certify on the form that the use of the property complies with the restrictions and requirements of the conservation easement.³⁹ The exemption will not be renewed unless the application is returned to the property appraiser.⁴⁰

The property appraiser must accept the renewal application as evidence of exemption unless the application is denied.⁴¹ Upon denial, the property appraiser must serve by first-class mail, on or before July 1, a notice to the applicant setting forth the grounds for denial.⁴² An applicant objecting to the denial may file a petition as provided for in s. 194.011(3), F.S.⁴³

Notice to Property Appraiser of Ineligibility of Ad Valorem Tax Exemption

The owner of any property granted an exemption for real property dedicated in perpetuity for conservation purposes must promptly notify the property appraiser whenever the use of the property no longer complies with the restrictions and requirements of the conservation easement.⁴⁴ If the property owner fails to notify the property appraiser and the property appraiser determines that for any year within the preceding 10 years the owner was not entitled to receive the exemption, the property owner is subject to taxes exempted as a result of the failure plus 18 percent interest per annum and a penalty of 100 percent of the taxes exempted.⁴⁵

Effect of Proposed Changes

The bill amends s. 196.011(6)(b), F.S., to remove the annual tax exemption renewal application requirement for real property dedicated in perpetuity for conservation purposes. Instead, the bill requires a property owner to file a renewal application only once the property no longer complies with the restrictions and requirements of the conservation easement.

The bill is effective July 1, 2016.

B. SECTION DIRECTORY:

Section 1. Amends s. 196.011(6)(b), F.S., regarding annual renewal application requirements for real property dedicated in perpetuity for conservation purposes.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

³⁶ Real Property Dedicated in Perpetuity for Conservation Exemption Application, available at <http://dor.myflorida.com/dor/property/forms/current/dr418c.pdf>.

³⁷ Real Property Dedicated in Perpetuity for Conservation Exemption Renewal Application, available at <http://dor.myflorida.com/dor/property/forms/current/dr418cr.pdf>.

³⁸ Section 196.011(6)(b), F.S.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Section 196.011(6)(a), F.S.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Section 196.011(9)(b), F.S.

⁴⁵ *Id.*

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive fiscal impact on the private sector because it deletes the annual renewal application to maintain the ad valorem tax exemption and resulting consequences involved if the property owner fails to return the renewal application.

D. FISCAL COMMENTS:

On October 2, 2015, the Revenue Estimating Conference determined this bill has no fiscal impact on state or local tax revenues. However, the bill may have a positive fiscal impact on local governments because property appraisers will no longer be required to mail renewal applications to applicants and will also no longer have to process the return of these yearly renewal applications.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DOR suggests that the bill may cause confusion because a property owner would be required to submit a renewal application when the use of the property no longer complies with the restrictions and requirements of the conservation easement. DOR suggests the property owner notify the property appraiser when the use of the property no longer complies with the restrictions and requirements of the conservation easement, rather than submit a renewal application.⁴⁶

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to conservation easements; amending s.
 3 196.011, F.S.; deleting a requirement that an
 4 exemption for a conservation easement must be renewed
 5 annually; providing that a property owner is not
 6 required to file a renewal application until the use
 7 of the property no longer complies with conservation
 8 easement requirements or restrictions; providing an
 9 effective date.

10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25
 26

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

Section 1. Paragraph (b) of subsection (6) of section 196.011, Florida Statutes, is amended to read:

196.011 Annual application required for exemption.-

(6)

(b) Once an original application for tax exemption has been granted under s. 196.26, the property owner is not required to file a renewal application until in each succeeding year on or before February 1, the property appraiser shall mail a renewal application to the applicant on a form prescribed by the Department of Revenue. The applicant must certify on the form that the use of the property no longer complies with the restrictions and requirements of the conservation easement. The form shall include a statement that the exemption granted under s. 196.26 will not be renewed unless the application is returned

HB 501

2016

27 | ~~to the property appraiser.~~

28 | Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 627 Community Contribution Tax Credits
SPONSOR(S): Economic Development and Tourism Subcommittee; Moraitis, Jr.
TIED BILLS: IDEN./SIM. BILLS: SB 868

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	12 Y, 0 N, As CS	Lukis	Duncan
2) Finance & Tax Committee		Pewitt <i>JP</i>	Langston <i>LB</i>
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The Florida Legislature created the Community Contribution Tax Credit Program (CCTCP) to encourage private sector participation in community revitalization and housing projects. The CCTCP offers a corporate income tax credit, an insurance premium tax credit, or a refund against sales tax to businesses or persons (donor) that contribute to eligible projects undertaken by approved CCTCP sponsors. The credit or refund is calculated as 50 percent of the donor's annual contribution, but a donor may not receive more than \$200,000 in credits or refunds in any one year.

Eligible CCTCP sponsors under the program include a wide variety of community development organizations, housing organizations, and units of state and local government. An eligible project includes activity undertaken by an eligible sponsor that is designed to:

- construct, improve or substantially rehabilitate housing that is affordable to low or very-low income households;
- provide housing opportunities for persons with special needs;
- provide commercial, industrial, or public resources and facilities; or
- improve entrepreneurial and job-development opportunities for low-income persons.

Contributions to eligible sponsor projects may only be in the following forms:

- cash or other liquid assets;
- real property;
- goods or inventory; or
- other physical resources as identified by the Department of Economic Opportunity (DEO or department).

The bill specifies that the donation of "real property" in the CCTCP includes the transfer of "100 percent ownership of a real property holding company." The bill defines "real property holding company" to mean a Florida entity, such as a Florida limited liability company, that must meet four requirements:

- 1) is wholly owned by the donor;
- 2) is the sole owner of the real property;
- 3) is a disregarded entity for federal income tax purposes; and
- 4) at the time of contribution to an eligible sponsor, has no material assets other than the real property and any other property that qualifies as a community contribution.

See FISCAL COMMENTS.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

In 1980, the Legislature established the Community Contribution Tax Credit Program (CCTCP) to encourage private sector participation in community revitalization and housing projects. Broadly, the CCTCP offers tax credits to businesses or persons (donor) that make certain contributions to eligible projects undertaken by approved CCTCP sponsors.¹

Eligible sponsors under the CCTCP include a wide variety of organizations and entities, including community development agencies, housing organizations, historic preservation organizations, units of state and local government, regional workforce boards, and any other agency that the Department of Economic Opportunity (department or DEO) designates by rule.² There are currently 122 approved sponsors in Florida.³

Eligible projects include activities undertaken by an eligible sponsor that are designed to accomplish one of the following purposes:

- to construct, improve, or substantially rehabilitate housing that is affordable to low-income or very-low-income households as defined in s. 420.9071(19) and (28), F.S.;
- to provide housing opportunities for persons with special needs as defined in s. 420.0004, F.S.;
- to provide commercial, industrial, or public resources and facilities; or
- to improve entrepreneurial and job-development opportunities for low-income persons.⁴

Additionally, eligible projects must be located in an area previously designated as an enterprise zone pursuant to Ch. 290, F.S., as of May 1, 2015, or a Front Porch Florida Community.⁵ However, the law permits the following three exceptions:

- any project designed to construct or rehabilitate housing for low-income households or very-low-income households as those terms are defined in s. 420.9071, F.S.;⁶
- any project designed to construct or rehabilitate housing opportunities for persons with special needs as defined in s. 420.0004, F.S.;⁷ and
- any project designed to provide increased access to high-speed broadband capabilities that includes coverage of an area designated as a rural enterprise zone as of May 1, 2015.⁸

Any eligible sponsor wishing to participate in the program must submit a proposal to DEO, which sets forth the sponsor, the project, the area in which the project is located, and any supporting information as may be prescribed by rule.⁹ The proposal must also contain a resolution from the local governmental unit in which it is located certifying that the project is consistent with local plans and regulations.¹⁰

¹ See ss. 212.08(5)(p); 220.183; and 624.5105, F.S. The contributing taxpayer may not have a financial interest in the eligible sponsor.

² See ss. 212.08(5)(p)2.c.; 220.183(2)(c); and 624.5105(2)(c), F.S.

³ Department of Economic Opportunity, 2016 Agency Legislative Bill Analysis for HB 627, page 3, December 2, 2015.

⁴ Sections 212.08(5)(p)2.b.; 220.183(2)(b); 624.5105(2)(b); and 220.03(1)(t), F.S.

⁵ Sections 212.08(p)2.d.; 220.183(2)(d); and 624.5102(2)(d), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* The infrastructure of such projects may be located in any area of a rural county (inside or outside of the zone).

⁹ Sections 212.08(5)(p)3.a.; 220.183(3)(a); and 624.5105(3)(a), F.S.

¹⁰ *Id.*

Contributions to eligible sponsor projects may only be in the form of cash or other liquid assets, real property, goods or inventory, or other physical resources as identified by DEO.¹¹ If the donation is of real property, it must be made directly from the donor to the eligible sponsor via a deed.¹²

Donors wishing to participate in the program must submit an application for a tax credit to DEO.¹³ The application sets forth the sponsor, project, and the type, value, and purpose of the contribution.¹⁴ The sponsor must verify the terms of the application and indicate its receipt of the contribution, which verification must be in writing and accompany the application for tax credit.¹⁵

Once DEO approves a taxpayer's application for a community contribution tax credit under the program, the donor must claim the credit from the Department of Revenue.¹⁶ The credit is calculated as 50 percent of the donor's annual contribution, but a taxpayer may not receive more than \$200,000 in credits in any one year.¹⁷ The donor may use the credit against corporate income tax, insurance premium tax, or as a refund against sales tax.¹⁸ Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years.¹⁹ Unused credits against sales taxes may be carried forward for three years.²⁰

The department may approve credits totaling \$18.4 million in Fiscal Year (FY) 2015-16; \$21.4 million in FY 2016-17; and \$21.4 million in FY 2017-18 for projects that provide housing opportunities for persons with special needs or homeownership opportunities for low or very-low income households. The department may approve \$3.5 million in those same FYs for all other types of eligible projects.²¹

As of December 2015, in FY 2015-16, DEO has approved approximately \$11.2 million of the \$18.4 million available for tax credits for homeownership projects and housing projects for persons with special needs.²² Approximately \$3.6 million worth of tax credits were requested for all other projects, resulting in a pro-rata approval rate of 95% of each tax credit application.²³

The CCTCP expires June 30, 2018.²⁴

Effect of Proposed Changes

The bill specifies that the donation of "real property" in the CCTCP includes the transfer of "100 percent ownership of a real property holding company." The bill defines "real property holding company" to mean a Florida entity, such as a Florida limited liability company, that must meet four requirements:

- 1) is wholly owned by the donor;
- 2) is the sole owner of the real property;
- 3) is a disregarded entity for federal income tax purposes; and

¹¹ Sections 212.08(5)(p)2.a.; 220.183(2)(a); 624.5105(5)(a); and 220.03(1)(d), F.S.

¹² See s. 192.001(12), F.S.

¹³ Sections 212.08(5)(p)3.b.; 220.183(3)(b); and 624.5105(3)(b), F.S. Taxpayers must submit separate applications for each individual contribution that it makes to each individual project. ¹³ Sections 212.08(5)(p)3.c.; 220.183(3)(c); and 624.5105(3)(c), F.S.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Sections 212.08(5)(p)4.; 220.183(4); and 624.5105(4), F.S.

¹⁷ Sections 212.08(5)(p)1.; 220.183 (1)(a) and (b); and 624.5105(1), F.S.

¹⁸ See ss. 212.08(5)(p); 220.183; and 624.5105, F.S. A donor may only apply the credits toward one tax obligation.

¹⁹ Sections 220.183(1)(e); and 624.5105(e), F.S.

²⁰ Section 212.08(5)(p)1.b. and f., F.S.

²¹ Sections 212.08(5)(p)1.e.; 220.183(1)(c); and 624.5105(1)(c), F.S.

²² Department of Economic Opportunity, 2016 Agency Bill Analysis for HB 627, December 2, 2015. Analysis on file with House staff.

²³ *Id.*

²⁴ Sections 212.08(5)(p)5.; 220.183(5); and 624.5105(6), F.S.

- 4) at the time of contribution to an eligible sponsor, has no material assets other than the real property and any other property that qualifies as a community contribution.

B. SECTION DIRECTORY:

- Section 1: Amends s. 220.03(1)(d), F.S., relating to corporate income taxes, allowing the transfer of “ownership interests in a real property holding company” as an eligible donation under the CCTCP and defining “real property holding company.”
- Section 2: Amends s. 212.08(5)(p), F.S., relating to sales and use taxes, allowing the transfer of “ownership interests in a real property holding company” as an eligible donation under the CCTCP and defining “real property holding company.”
- Section 3: Amends s. 624.5105(5)(a), F.S., relating to insurance premium taxes, allowing the transfer of “ownership interests in a real property holding company” as an eligible donation under the CCTCP and defining “real property holding company.”

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Revenue Estimating Conference (REC) estimated that the bill would have no fiscal impact on state funds.²⁵ The REC analysis on the bill notes that the proposed language “does not affect eligibility or restrict access to the credits, which were already assumed to reach the allotted cap in each of the two respective fiscal years for which they are authorized under current law. As such, the result of the language would be to possibly shift credits between otherwise eligible entities but would not have an impact in the aggregate.”²⁶

²⁵ Revenue Estimating Conference Analysis, HB 627/SB 868, 12/2/2015. Analysis on file with House staff.

²⁶ *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 13, 2016, the Economic Development and Tourism Subcommittee adopted one amendment to the bill. The amendment specifies that a donation of a "real property holding company" as prescribed in the bill must be a transfer of 100 percent of the ownership of the holding company.

This analysis has been updated to reflect the amendment.

1 A bill to be entitled
2 An act relating to community contribution tax credits;
3 amending s. 220.03, F.S.; providing definitions
4 related to community contribution tax credits that may
5 apply to business firms against certain income tax
6 liabilities; amending s. 212.08, F.S.; providing
7 definitions related to community contribution tax
8 credits that may apply against sales and use tax
9 liabilities; amending s. 624.5105, F.S.; providing
10 definitions related to community contribution tax
11 credits that may apply against certain premium tax
12 liabilities; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Paragraph (d) of subsection (1) of section
17 220.03, F.S., is amended to read:

18 220.03 Definitions.—

19 (1) SPECIFIC TERMS.—When used in this code, and when not
20 otherwise distinctly expressed or manifestly incompatible with
21 the intent thereof, the following terms shall have the following
22 meanings:

23 (d) "Community Contribution" means the grant by a business
24 firm of any of the following items:

25 1. Cash or other liquid assets.

26 2. Real property, which for purposes of this subparagraph

27 includes 100 percent ownership of a real property holding
 28 company. The term "real property holding company" means a
 29 Florida entity, such as a Florida limited liability company,
 30 that:
 31 a. Is wholly owned by the business firm.
 32 b. Is the sole owner of real property, as defined in s.
 33 192.001(12), located in the state.
 34 c. Is disregarded as an entity for federal income tax
 35 purposes pursuant to 26 C.F.R. s. 301.7701-3(b)(1)(ii).
 36 d. At the time of contribution to an eligible sponsor, has
 37 no material assets other than the real property and any other
 38 property that qualifies as a community contribution.
 39 3. Goods or inventory.
 40 4. Other physical resources as identified by the
 41 department.

42
 43 This paragraph expires June 30, 2018.

44 Section 2. Paragraph (p) of subsection (5) of section
 45 212.08, Florida Statutes, is amended to read:

46 212.08 Sales, rental, use, consumption, distribution, and
 47 storage tax; specified exemptions.—The sale at retail, the
 48 rental, the use, the consumption, the distribution, and the
 49 storage to be used or consumed in this state of the following
 50 are hereby specifically exempt from the tax imposed by this
 51 chapter.

52 (5) EXEMPTIONS; ACCOUNT OF USE.—

53 (p) Community contribution tax credit for donations.—

54 1. Authorization.—Persons who are registered with the
 55 department under s. 212.18 to collect or remit sales or use tax
 56 and who make donations to eligible sponsors are eligible for tax
 57 credits against their state sales and use tax liabilities as
 58 provided in this paragraph:

59 a. The credit shall be computed as 50 percent of the
 60 person's approved annual community contribution.

61 b. The credit shall be granted as a refund against state
 62 sales and use taxes reported on returns and remitted in the 12
 63 months preceding the date of application to the department for
 64 the credit as required in sub-subparagraph 3.c. If the annual
 65 credit is not fully used through such refund because of
 66 insufficient tax payments during the applicable 12-month period,
 67 the unused amount may be included in an application for a refund
 68 made pursuant to sub-subparagraph 3.c. in subsequent years
 69 against the total tax payments made for such year. Carryover
 70 credits may be applied for a 3-year period without regard to any
 71 time limitation that would otherwise apply under s. 215.26.

72 c. A person may not receive more than \$200,000 in annual
 73 tax credits for all approved community contributions made in any
 74 one year.

75 d. All proposals for the granting of the tax credit
 76 require the prior approval of the Department of Economic
 77 Opportunity.

78 e. The total amount of tax credits which may be granted

79 for all programs approved under this paragraph, s. 220.183, and
 80 s. 624.5105 is \$18.4 million in the 2015-2016 fiscal year, \$21.4
 81 million in the 2016-2017 fiscal year, and \$21.4 million in the
 82 2017-2018 fiscal year for projects that provide housing
 83 opportunities for persons with special needs or homeownership
 84 opportunities for low-income households or very-low-income
 85 households and \$3.5 million annually for all other projects. As
 86 used in this paragraph, the term "person with special needs" has
 87 the same meaning as in s. 420.0004 and the terms "low-income
 88 person," "low-income household," "very-low-income person," and
 89 "very-low-income household" have the same meanings as in s.
 90 420.9071.

91 f. A person who is eligible to receive the credit provided
 92 in this paragraph, s. 220.183, or s. 624.5105 may receive the
 93 credit only under one section of the person's choice.

94 2. Eligibility requirements.—

95 a. A community contribution by a person must be in the
 96 following form:

97 (I) Cash or other liquid assets;

98 (II) Real property, including 100 percent ownership of a
 99 real property holding company;

100 (III) Goods or inventory; or

101 (IV) Other physical resources identified by the Department
 102 of Economic Opportunity.

103

104 For purposes of this subparagraph, the term "real property

105 holding company" means a Florida entity, such as a Florida
 106 limited liability company, that is wholly owned by the person;
 107 is the sole owner of real property, as defined in s.
 108 192.001(12), located in the state; is disregarded as an entity
 109 for federal income tax purposes pursuant to 26 C.F.R. s.
 110 301.7701-3(b)(1)(ii); and at the time of contribution to an
 111 eligible sponsor, has no material assets other than the real
 112 property and any other property that qualifies as a community
 113 contribution.

114 b. All community contributions must be reserved
 115 exclusively for use in a project. As used in this sub-
 116 subparagraph, the term "project" means activity undertaken by an
 117 eligible sponsor which is designed to construct, improve, or
 118 substantially rehabilitate housing that is affordable to low-
 119 income households or very-low-income households; designed to
 120 provide housing opportunities for persons with special needs;
 121 designed to provide commercial, industrial, or public resources
 122 and facilities; or designed to improve entrepreneurial and job-
 123 development opportunities for low-income persons. A project may
 124 be the investment necessary to increase access to high-speed
 125 broadband capability in a rural community that had an enterprise
 126 zone designated pursuant to chapter 290 as of May 1, 2015,
 127 including projects that result in improvements to communications
 128 assets that are owned by a business. A project may include the
 129 provision of museum educational programs and materials that are
 130 directly related to a project approved between January 1, 1996,

131 and December 31, 1999, and located in an area which was in an
 132 enterprise zone designated pursuant to s. 290.0065 as of May 1,
 133 2015. This paragraph does not preclude projects that propose to
 134 construct or rehabilitate housing for low-income households or
 135 very-low-income households on scattered sites or housing
 136 opportunities for persons with special needs. With respect to
 137 housing, contributions may be used to pay the following eligible
 138 special needs, low-income, and very-low-income housing-related
 139 activities:

140 (I) Project development impact and management fees for
 141 special needs, low-income, or very-low-income housing projects;

142 (II) Down payment and closing costs for persons with
 143 special needs, low-income persons, and very-low-income persons;

144 (III) Administrative costs, including housing counseling
 145 and marketing fees, not to exceed 10 percent of the community
 146 contribution, directly related to special needs, low-income, or
 147 very-low-income projects; and

148 (IV) Removal of liens recorded against residential
 149 property by municipal, county, or special district local
 150 governments if satisfaction of the lien is a necessary precedent
 151 to the transfer of the property to a low-income person or very-
 152 low-income person for the purpose of promoting home ownership.
 153 Contributions for lien removal must be received from a
 154 nonrelated third party.

155 c. The project must be undertaken by an "eligible
 156 sponsor," which includes:

- 157 (I) A community action program;
- 158 (II) A nonprofit community-based development organization
- 159 whose mission is the provision of housing for persons with
- 160 specials needs, low-income households, or very-low-income
- 161 households or increasing entrepreneurial and job-development
- 162 opportunities for low-income persons;
- 163 (III) A neighborhood housing services corporation;
- 164 (IV) A local housing authority created under chapter 421;
- 165 (V) A community redevelopment agency created under s.
- 166 163.356;
- 167 (VI) A historic preservation district agency or
- 168 organization;
- 169 (VII) A regional workforce board;
- 170 (VIII) A direct-support organization as provided in s.
- 171 1009.983;
- 172 (IX) An enterprise zone development agency created under
- 173 s. 290.0056;
- 174 (X) A community-based organization incorporated under
- 175 chapter 617 which is recognized as educational, charitable, or
- 176 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
- 177 and whose bylaws and articles of incorporation include
- 178 affordable housing, economic development, or community
- 179 development as the primary mission of the corporation;
- 180 (XI) Units of local government;
- 181 (XII) Units of state government; or
- 182 (XIII) Any other agency that the Department of Economic

183 Opportunity designates by rule.

184

185 A contributing person may not have a financial interest in the
186 eligible sponsor.

187 d. The project must be located in an area which was in an
188 enterprise zone designated pursuant to chapter 290 as of May 1,
189 2015, or a Front Porch Florida Community, unless the project
190 increases access to high-speed broadband capability in a rural
191 community that had an enterprise zone designated pursuant to
192 chapter 290 as of May 1, 2015, but is physically located outside
193 the designated rural zone boundaries. Any project designed to
194 construct or rehabilitate housing for low-income households or
195 very-low-income households or housing opportunities for persons
196 with special needs is exempt from the area requirement of this
197 sub-subparagraph.

198 e.(I) If, during the first 10 business days of the state
199 fiscal year, eligible tax credit applications for projects that
200 provide housing opportunities for persons with special needs or
201 homeownership opportunities for low-income households or very-
202 low-income households are received for less than the annual tax
203 credits available for those projects, the Department of Economic
204 Opportunity shall grant tax credits for those applications and
205 grant remaining tax credits on a first-come, first-served basis
206 for subsequent eligible applications received before the end of
207 the state fiscal year. If, during the first 10 business days of
208 the state fiscal year, eligible tax credit applications for

209 projects that provide housing opportunities for persons with
 210 special needs or homeownership opportunities for low-income
 211 households or very-low-income households are received for more
 212 than the annual tax credits available for those projects, the
 213 Department of Economic Opportunity shall grant the tax credits
 214 for those applications as follows:

215 (A) If tax credit applications submitted for approved
 216 projects of an eligible sponsor do not exceed \$200,000 in total,
 217 the credits shall be granted in full if the tax credit
 218 applications are approved.

219 (B) If tax credit applications submitted for approved
 220 projects of an eligible sponsor exceed \$200,000 in total, the
 221 amount of tax credits granted pursuant to sub-sub-sub-
 222 subparagraph (A) shall be subtracted from the amount of
 223 available tax credits, and the remaining credits shall be
 224 granted to each approved tax credit application on a pro rata
 225 basis.

226 (II) If, during the first 10 business days of the state
 227 fiscal year, eligible tax credit applications for projects other
 228 than those that provide housing opportunities for persons with
 229 special needs or homeownership opportunities for low-income
 230 households or very-low-income households are received for less
 231 than the annual tax credits available for those projects, the
 232 Department of Economic Opportunity shall grant tax credits for
 233 those applications and shall grant remaining tax credits on a
 234 first-come, first-served basis for subsequent eligible

235 applications received before the end of the state fiscal year.
 236 If, during the first 10 business days of the state fiscal year,
 237 eligible tax credit applications for projects other than those
 238 that provide housing opportunities for persons with special
 239 needs or homeownership opportunities for low-income households
 240 or very-low-income households are received for more than the
 241 annual tax credits available for those projects, the Department
 242 of Economic Opportunity shall grant the tax credits for those
 243 applications on a pro rata basis.

244 3. Application requirements.—

245 a. An eligible sponsor seeking to participate in this
 246 program must submit a proposal to the Department of Economic
 247 Opportunity which sets forth the name of the sponsor, a
 248 description of the project, and the area in which the project is
 249 located, together with such supporting information as is
 250 prescribed by rule. The proposal must also contain a resolution
 251 from the local governmental unit in which the project is located
 252 certifying that the project is consistent with local plans and
 253 regulations.

254 b. A person seeking to participate in this program must
 255 submit an application for tax credit to the Department of
 256 Economic Opportunity which sets forth the name of the sponsor, a
 257 description of the project, and the type, value, and purpose of
 258 the contribution. The sponsor shall verify, in writing, the
 259 terms of the application and indicate its receipt of the
 260 contribution, and such verification must accompany the

261 application for tax credit. The person must submit a separate
 262 tax credit application to the Department of Economic Opportunity
 263 for each individual contribution that it makes to each
 264 individual project.

265 c. A person who has received notification from the
 266 Department of Economic Opportunity that a tax credit has been
 267 approved must apply to the department to receive the refund.
 268 Application must be made on the form prescribed for claiming
 269 refunds of sales and use taxes and be accompanied by a copy of
 270 the notification. A person may submit only one application for
 271 refund to the department within a 12-month period.

272 4. Administration.—

273 a. The Department of Economic Opportunity may adopt rules
 274 necessary to administer this paragraph, including rules for the
 275 approval or disapproval of proposals by a person.

276 b. The decision of the Department of Economic Opportunity
 277 must be in writing, and, if approved, the notification shall
 278 state the maximum credit allowable to the person. Upon approval,
 279 the Department of Economic Opportunity shall transmit a copy of
 280 the decision to the department.

281 c. The Department of Economic Opportunity shall
 282 periodically monitor all projects in a manner consistent with
 283 available resources to ensure that resources are used in
 284 accordance with this paragraph; however, each project must be
 285 reviewed at least once every 2 years.

286 d. The Department of Economic Opportunity shall, in

287 | consultation with the statewide and regional housing and
 288 | financial intermediaries, market the availability of the
 289 | community contribution tax credit program to community-based
 290 | organizations.

291 | 5. Expiration.—This paragraph expires June 30, 2018;
 292 | however, any accrued credit carryover that is unused on that
 293 | date may be used until the expiration of the 3-year carryover
 294 | period for such credit.

295 | Section 3. Paragraph (a) of subsection (5) of section
 296 | 624.5105, Florida Statutes, is amended to read:

297 | 624.5105 Community contribution tax credit; authorization;
 298 | limitations; eligibility and application requirements;
 299 | administration; definitions; expiration.—

300 | (5) DEFINITIONS.—As used in this section, the term:

301 | (a) "Community contribution" means the grant by an insurer
 302 | of any of the following items:

- 303 | 1. Cash or other liquid assets.
- 304 | 2. Real property, including 100 percent ownership of a
 305 | real property holding company.
- 306 | 3. Goods or inventory.
- 307 | 4. Other physical resources which are identified by the
 308 | department.

309 |
 310 | For purposes of this paragraph, the term "real property holding
 311 | company" means a Florida entity, such as a Florida limited
 312 | liability company, that is wholly owned by the insurer; is the

CS/HB 627



2016

313 sole owner of real property, as defined in s. 192.001(12),
 314 located in the state; is disregarded as an entity for federal
 315 income tax purposes pursuant to 26 C.F.R. s. 301.7701-
 316 3(b)(1)(ii); and at the time of contribution to an eligible
 317 sponsor, has no material assets other than the real property and
 318 any other property that qualifies as a community contribution.

319 Section 4. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 775 An act relating to Emergency Preparedness and Response
SPONSOR(S): Finance & Tax Committee
TIED BILLS: IDEN./SIM. BILLS:

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

SUMMARY ANALYSIS

Currently, Florida does not provide a state certification for individuals or employers who assist in delivering essential goods or restoring utilities during times of emergency. Each local jurisdiction may impose identification requirements and credentials beyond that which the division suggests for persons travelling into disaster areas.

The proposed committee substitute directs the Division of Emergency Management to establish a statewide system to facilitate the transportation and distribution of essentials and restoration of utilities throughout the state during times of emergency. The term "essentials" means any goods that are consumed or used as a direct result of an emergency or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being.

The division must develop a system to certify persons who transport or distribute essentials in commerce or who assist in restoring utility services.

The system may allow for certification of persons both before and after a declaration of emergency. If requested by the employer, a certification of the employer constitutes a certification of the employer's employees. The division may certify only a person who routinely transports or distributes essentials or assists in restoring utility services.

The division is directed to create an easily recognizable indicium of certification to assist local officials' efforts in determining who has access to an area. Each certification may last no longer than 1 year, but may be renewed so long as criteria for certification continue to be met.

Any person certified by the division may not be required to obtain any additional certifications or meet any other requirements in order to transport essentials or assist in restoring utility services. Certified individuals will move throughout the state and throughout local communities at times of emergency. During times of curfew, certified persons are permitted to enter or remain in the curfew area for the limited purpose of distributing or assisting in the distribution of essentials.

The proposed committee substitute also states that law enforcement officers are not prohibited from specifying the permissible route of ingress or egress of certified individuals.

The proposed committee substitute will be effective upon becoming law.

The bill has no fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Currently, Florida does not provide a state certification for individuals or employers who assist in delivering essential goods or restoring utilities during times of emergency.

Each local jurisdiction may impose identification requirements and credentials beyond that which the division suggests.¹ Over the past few years, the division's Office of Private Sector Coordination "formulated a working group to discuss...private sector re-entry."² Statements at meetings and survey responses indicated that most local jurisdictions would allow access to disaster stricken areas if private sector employees and businesses possess three of the following items:³

- A corporate identification card.
- A letter of authorization.
- A bill of lading/work order.
- A valid driver's license.

The items listed above are only a recommended list and each county may require additional documentation from persons who travel into disaster areas.

Proposed Changes

The proposed committee substitute directs the Division of Emergency Management to establish a statewide system to facilitate the transportation and distribution of essentials and restoration of utilities throughout the state during times of emergency. The term "essentials" means any goods that are consumed or used as a direct result of an emergency or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being.

The division must develop a system to certify persons who transport or distribute essentials in commerce or who assist in restoring utility services.

The system may allow for certification of persons both before and after a declaration of emergency. If requested by the employer, a certification of the employer constitutes a certification of the employer's employees. The division may certify only a person who routinely transports or distributes essentials or assists in restoring utility services.

The division is directed to create an easily recognizable indicium of certification to assist local officials' efforts in determining who has access to an area. Each certification may last no longer than 1 year, but may be renewed so long as criteria for certification continue to be met.

Any person certified by the division may not be required to obtain any additional certifications or meet any other requirements in order to transport essentials or assist in restoring utility services. Certified individuals will move throughout the state and throughout local communities at times of emergency. During times of curfew, certified persons are permitted to enter or remain in the curfew area for the limited purpose of distributing or assisting in the distribution of essentials.

¹ Department of Emergency Management, *Senate Bill 608 Fiscal Analysis* (Nov. 2, 2016)(on file with the House Finance and Tax Committee).

²Florida Division of Emergency Management, *Statewide Re-entry Information*, available at http://www.floridadisaster.org/PublicPrivateSector/reentry_information.html (last visited Nov 18, 2015).

³ *Id.*

The proposed committee substitute also states that law enforcement officers are not prohibited from specifying the permissible route of ingress or egress of certified individuals.

B. SECTION DIRECTORY:

Section 1 creates s. 252.359, F.S., requiring the Division of Emergency Management to create a certification program for people that transport essentials or help restore utility services in areas affected by a disaster.

Section 2 provides that the bill will be effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Division of Emergency Management has stated that these requirements can be met with existing technology and staff and that no additional expenditures will be required.⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private sector distributors or essentials and utility companies will have an easier time providing services in counties across the state.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

⁴ Department of Emergency Management, Senate Bill 608 Fiscal Analysis (Nov. 2, 2016)(on file with the House Finance and Tax Committee). The provisions of this proposed committee substitute are substantially similar to those in SB 608.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

A bill to be entitled
 An act relating to emergency preparedness and
 response; creating s. 252.359, F.S.; directing the
 Division of Emergency Management to create a statewide
 system to facilitate the transport and distribution of
 essentials and the restoration of utility services
 throughout the state during a declared emergency;
 defining the term "essentials"; directing the division
 to create a certification system for persons
 transporting or distributing essentials or assisting
 in restoring utility services; providing requirements
 and conditions for the certification system;
 permitting certain activities by certified persons
 during a curfew; authorizing a law enforcement officer
 to specify a permissible route of ingress or egress
 for a certified person; providing an effective date.

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

Section 1. Section 252.359, Florida Statutes, is created
 to read:

252.359 Ensuring availability of emergency supplies.—
(1) In order to meet the needs of residents affected
during a declared emergency and to ensure the continuing
economic resilience of communities impacted by disaster, the
division shall establish a statewide system to facilitate the

27 transport and distribution of essentials in commerce and the
 28 restoration of utility services in the state.

29 (2) As used in this section, the term "essentials" means
 30 goods that are consumed or used as a direct result of a declared
 31 emergency, or that are consumed or used to preserve, protect, or
 32 sustain life, health, safety, or economic well-being.

33 (3) The division shall develop a system to certify each
 34 person who facilitates the transport or distribution of
 35 essentials in commerce or who assists in restoring utility
 36 services. The division may not certify any person other than a
 37 person who routinely transports or distributes essentials or
 38 assists in restoring utility services. In developing the system,
 39 the division:

40 (a) May provide for a preemergency or postemergency
 41 declaration certification.

42 (b) Shall allow the certification of an employer to
 43 constitute a certification of the employer's employees, if the
 44 employer requests.

45 (c) Shall create an easily recognizable indicium of
 46 certification to assist local officials' efforts in determining
 47 which persons have been certified under this subsection.

48 (d) Shall limit the duration of each certificate to no
 49 more than 1 year. Each certificate may be renewed so long as the
 50 criteria for certification are met.

51 (4) A person or employer certified under subsection (3) is
 52 not required to obtain any additional certification or fulfill

53 any additional requirement in order to transport or distribute
 54 essentials or assist in restoring utility services.


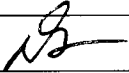
55 (5) Notwithstanding any curfew, a person or employer
 56 certified under subsection (3) may enter or remain in the curfew
 57 area for the limited purpose of facilitating the transport or
 58 distribution of essentials or assisting in restoring utility
 59 services and may provide service that exceeds otherwise
 60 applicable hours of service maximums to the extent authorized by
 61 a duly executed declaration of a state of emergency.

62 (6) This section does not prohibit a law enforcement
 63 officer from specifying the permissible route of ingress or
 64 egress for a person certified under subsection (3).

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 785 St. Lucie County Fire District, St. Lucie County
SPONSOR(S): Local Government Affairs Subcommittee, Lee, Jr.
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	9 Y, 0 N, As CS	Monroe	Miller
2) Finance & Tax Committee		Pewitt 	Langston 
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

HB 785 revises the charter of the St. Lucie County Fire District to change the District's borrowing limit. Currently, the District may borrow up to \$1,500,000, unless an emergency is declared. If an emergency is declared the District may borrow up to \$4,000,000. Under HB 785, the District will be able to borrow an amount not to exceed 10% of their operating budget.

This bill will take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district¹ created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.² Chapter 191, F.S., the “Independent Special Fire Control District Act,” is intended to provide standards, direction, and procedures for greater uniformity in the operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and election of members to the governing boards for greater public accountability.³ Chapter 191 controls over more specific provisions in any special act or general law of local application creating an independent fire control district’s charter.⁴ The Chapter requires every independent fire control district be governed by a five-member board unless the board members are appointed⁵ and provides for:

- General powers;⁶
- Special powers;⁷
- Authority and procedures for the assessment and collection of ad valorem taxes;⁸
- Authority and procedures for the imposition, levy, and collection of non-ad valorem assessments, charges, and fees;⁹ and
- Issuance of district bonds and evidences of debt.¹⁰

As a type of independent special district,¹¹ independent special fire control districts are also subject to applicable provisions of ch. 189, F.S., the “Uniform Special District Accountability Act.”¹² That Act prohibits special laws or general laws of local application that:¹³

¹ A “special district” is a local government unit of “special purpose, as opposed to general purpose, operat[ed] within a limited boundary and created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.” S. 189.012(6), F.S. An “independent special district” is any special district that is not a “dependent special district,” which is defined as a special district in which: the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the special district’s governing body are removable at will during their unexpired terms by the governing body of a single county or municipality, or the district’s budget is subject to the approval of the governing body of a single county or municipality. S. 189.012(3), F.S.

² Section 191.003(5), F.S.

³ Section 191.002, F.S.

⁴ Section 191.004, F.S. Provisions in other laws pertaining to district boundaries or geographical sub-districts for electing members to the governing board are excepted from this section. *Id.*

⁵ Section 191.005(1)(a), F.S. A fire control district may continue to be governed by a three-member board if authorized by special act adopted in or after 1997.

⁶ Section 191.006, F.S. (such as the power to sue and be sued in the name of the district, the power to contract, and the power of eminent domain).

⁷ Section 191.008, F.S.

⁸ Section 191.006(14); 191.009(1), F.S.

⁹ Section 191.006(11), (15), 191.009(2)—(4), 191.011, F.S.

¹⁰ Section 191.012, F.S.

¹¹ Section 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.

¹² Section 189.031, F.S.

¹³ Article III, s. 11(a)(21), Fla. Const. (enabling the prohibition of any special law or general law of local application on a subject, if such prohibition is passed as a general law approved by three-fifths vote of the membership of each house. A general law passed in this manner may be amended or repealed by “like vote.” The “Uniform Special District Accountability Act” (ch. 89-169, s. 67, Laws of Fla.) was originally passed by a three-fifths majority in each the House and the Senate.

- Create special districts which do not conform with the minimum requirements for district charters under s. 189.031(3), F.S.;¹⁴
- Exempt district elections from the requirements of s. 189.04, F.S.;¹⁵
- Exempt a district from the requirements for bond referenda under s. 189.042, F.S.;¹⁶
- Exempt a district from the requirements for reporting, notice, or public meetings under ss. 189.015, 189.016, 189.051, or 189.08, F.S.;¹⁷
- Create a district for which a statement documenting the following is not submitted to the Legislature:
 - The purpose of the proposed district;
 - The authority of the proposed district;
 - An explanation of why the district is the best alternative; and
 - A resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating that the proposed district is consistent with approved local government plans and the local government does not object to creation of the district.¹⁸

An independent special district, as an entity created by the Legislature, only possesses the powers granted by the authorizing law.¹⁹ Therefore, any boundary expansion must be approved by the Legislature.²⁰ A special district may not levy ad valorem taxes without approval by the effected voters in a referendum.²¹

An independent special fire control district is authorized to borrow, via bonding or other methods, provided that the total amount of annual debt service does not exceed 50% of its annual operating budget.

St. Lucie County Fire District

The St. Lucie Fire District was created in 1959 and its Charter was codified by Chapter 2004-407, Laws of Florida. The District is governed by an appointed board consisting of:

- Two members from the Board of County Commissioners of St. Lucie County,
- Two members from the City Commission of the City of Ft. Pierce,
- Two members from the City Commission of the City of Port St. Lucie, and
- One member appointed by the Governor.

The District may borrow up to \$1,500,000 per year, unless an emergency is declared. If an emergency is declared the District may borrow up to \$4,000,000.²²

Effect of Proposed Changes

HB 785 revises the charter of the St. Lucie County Fire District²³ to change the District's borrowing limit. Under the bill, the District will be able to borrow an amount not to exceed 10% of its operating budget. The funds borrowed must be spent in accordance with a supermajority vote of the District's board and the funds cannot be spent on normal operating expenses. The District's operating budget for fiscal year 2015-2016 is \$87,104,738.²⁴

¹⁴ Section 189.031(2)(a), F.S.

¹⁵ Section 189.031(2)(b), F.S.

¹⁶ Section 189.031(2)(c), F.S.

¹⁷ Section 189.031(2)(d), F.S.

¹⁸ Section 189.031(2)(e), F.S.

¹⁹ *Bd. of Comm'rs of Jupiter Inlet Dist. v. Thibadeau*, 956 So. 2d 529, 531 (Fla. 4th DCA 2007).

²⁰ Section 191.014(2), F.S. ("The territorial boundaries of [an independent special fire control] district may be modified, extended, or enlarged with the approval or ratification of the Legislature.").

²¹ Article VII, s. 9(b), Fla. Const.

²² Section 6(2) of Section 3 Chapter 2004-407, Laws of Florida

²³ Ch. 2004-407, Laws of Florida.

²⁴ Accessible at http://www.slcfcd.com/assets/documents/2015_2016_budget.pdf. Last accessed on February 1, 2016.

B. SECTION DIRECTORY:

Section 1 revises the charter of the St. Lucie County Fire District to change the District's borrowing limit. It provides that the District will be able to borrow an amount not to exceed 10% of its operating budget. The borrowed funds may only be expended through a supermajority vote of the District's board.

Section 2 states that the bill shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 21, 2015

WHERE? Treasure Coast Newspapers

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is unclear whether the new borrowing limit is intended to apply to the total amount that the District may borrow in the aggregate, or the total amount it may borrow in a single year.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 13, 2016, the Local Government Affairs Subcommittee adopted an amendment to remove the definition of the term "emergency" in the District's Charter. Since the bill as filed removed the only use of this term in the Charter the definition was superfluous.

This analysis was written to the bill as amended.

1 A bill to be entitled
 2 An act relating to the St. Lucie County Fire District,
 3 St. Lucie County; amending chapter 2004-407, Laws of
 4 Florida; revising requirements for the district's
 5 board of commissioners to borrow money; providing an
 6 effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Section 6 of section 3 of chapter 2004-407,
 11 Laws of Florida, is amended to read:

12 Section 6. Gifts; purchases; loans.-

13 (1) The board shall have the power and authority to hold,
 14 control, and acquire, by gift or purchase, for the use of the
 15 district, any real or personal property and to pay the purchase
 16 price in installments or deferred payments and to condemn any
 17 lands needed for the purpose of said district. Said board is
 18 authorized to exercise the right of eminent domain and institute
 19 and maintain condemnation proceedings in the same manner as St.
 20 Lucie County, as other public municipalities under the laws of
 21 the state, or both.

22 (2) The board is hereby authorized and empowered, in order
 23 to carry out the purposes of this act, to borrow money not to
 24 exceed 10 percent of the district's operating budget consistent
 25 with chapters 189 and 191, Florida Statutes, the uses for which
 26 must be approved by a supermajority of six affirmative votes of

27 | the board, and the uses may not include normal operational
 28 | expenses; and \$1,500,000 in any one year unless the board shall
 29 | issue a resolution that declares a district emergency as defined
 30 | in this section, in which case the board is authorized and
 31 | empowered to borrow money not to exceed the sum of \$4 million.
 32 | In no event, however, shall the total of all amounts borrowed
 33 | and unpaid exceed the sum of \$5 million. The board is further
 34 | authorized and empowered to issue its promissory notes therefor
 35 | upon such terms and at such rates of interest as said board may
 36 | deem advisable, and said notes shall be a charge upon all
 37 | revenues derived from taxes in that year. If the district votes
 38 | to refinance any debt based on borrowed money authorized under
 39 | this subsection, its refinanced term cannot extend beyond its
 40 | original term.

41 | ~~(3) An emergency for the purposes of the St. Lucie County~~
 42 | ~~Fire District is defined as:~~

43 | ~~(a) A natural or manmade fire or medical disaster~~
 44 | ~~involving significant injury, death, or destruction of~~
 45 | ~~structures and requiring extensive and unforeseen use of~~
 46 | ~~overtime or additional personnel.~~

47 | ~~(b) A response to a declaration of a local emergency and~~
 48 | ~~request by St. Lucie County that the district provide emergency~~
 49 | ~~services, the cost of which exceeds the annual borrowing limit~~
 50 | ~~of the district.~~

51 | ~~(c) A need to replace or repair fire or emergency medical~~
 52 | ~~vehicles and equipment based on unanticipated and unforeseen~~

53 ~~circumstances, rather than on ordinary wear and tear, for losses~~
 54 ~~not covered by insurance.~~

55 (3)~~(4)~~ The board of ~~commissioners of the district~~ shall
 56 have the power and authority to acquire by gift or purchase and
 57 to pay the purchase price for such firefighting and other
 58 equipment as deemed reasonably necessary for the protection of
 59 property, safety of lives, or reduction of fire hazards to the
 60 same, in the district; to hire firefighting, emergency medical,
 61 civilian, and other personnel as needed; and to inspect all
 62 property and investigate for fire hazards and prescribe rules
 63 and regulations pertaining thereto, including the enforcement of
 64 the Florida Fire Prevention Code as revised from time to time.

65 (4)~~(5)~~ The board of ~~commissioners of the district~~ may
 66 acquire, by gift or purchase, such emergency equipment and
 67 employ such personnel as may be determined reasonably necessary
 68 by the board for the operation and maintenance of emergency
 69 medical service within the district.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 791 Local Tax Referenda
SPONSOR(S): Local Government Affairs Subcommittee; Ingoglia
TIED BILLS: IDEN./SIM. **BILLS:** SB 1100

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	6 Y, 3 N, As CS	Darden	Miller
2) Finance & Tax Committee		Aldridge <i>A</i>	Langston <i>LS</i>
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution preempts all forms of taxation, except for ad valorem taxes on real estate and tangible personal property, to the state unless otherwise provided by general law. Section 212.055, F.S. provides counties limited authority to levy discretionary sales surtaxes for specific purposes on transactions subject to state sales tax. Discretionary sales surtaxes are generally subject to approval by a majority of the qualified electors in a referendum.

Forty-six counties and fifteen school districts across the state levy at least one local discretionary sales surtax. These surtaxes are estimated to generate \$2.2 billion in revenue during fiscal year 2016-17.

The bill requires any referendum to levy a discretionary sales surtax to be held on the day of the general election and approved by 60 percent of electors voting. The bill also prohibits a county or school district from spending funds to promote a surtax referendum, except for funds specifically appropriated for that purpose.

The Revenue Estimating Conference has not evaluated the bill. If the higher voter approval threshold required by the bill prevents some levies from being approved that would have been approved otherwise, then the revenue impact of the bill is negative to local governments. However, the extent to which that may happen is unknown. Additionally, the bill may reduce local government expenditures to the extent that costs currently incurred to hold a special election for approval of a discretionary sales surtax would be avoided under the provisions of the bill.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Introduction

Discretionary Sales Surtax

The Florida Constitution preempts all forms of taxation, except for ad valorem taxes on real estate and tangible personal property, to the state unless otherwise provided by general law.¹ By statute, counties have limited authority to levy a discretionary sales surtax for specific purposes on transactions subject to state sales tax.² These purposes include:

- The operation of a transportation system by a charter county;³
- Financing local government infrastructure projects;⁴
- Providing additional revenue for counties having less than 50,000 residents as of April 1, 1992;⁵
- Providing medical care for indigent persons;⁶
- Funding trauma centers;⁷
- The operation, maintenance, and administration of a county public general hospital;⁸
- School construction and renovation;⁹ and
- Providing emergency fire rescue services and facilities.¹⁰

The surtax is collected by the Department of Revenue (DOR) using the same procedures utilized for the administration, collection, and enforcement of the general state sales tax.¹¹ DOR places these funds into the Discretionary Sales Surtax Clearing Trust Fund.¹² A separate account is established for each county imposing a discretionary surtax.¹³ The proceeds of the surtax are distributed to the county on a monthly basis, minus an administrative fee of the lesser of three percent or administrative costs solely and directly attributable to the surtax.¹⁴ Each county is liable for administrative costs equal to its prorated share of discretionary sales surtax revenue to the amount collected statewide.¹⁵

New surtaxes and rate changes to existing surtaxes take effect on January 1, while the repeal of an existing surtax takes effect on December 31.¹⁶ The governing body of the county or the school district must notify DOR of the imposition, termination, or rate change of a discretionary sales surtax within 10 days of final adoption by ordinance or referendum, but no later than November 16.¹⁷ The notification must include the duration of the surtax, the surtax rate, a copy of the ordinance, and any additional

¹ Art. VII, s. 1(a), Fla. Const..

² Section 212.054, F.S.; s. 212.055, F.S.

³ Section 212.055(1), F.S.

⁴ Section 212.055(2), F.S.

⁵ Section 212.055(3), F.S.

⁶ Section 212.055(4)(a), F.S. (for counties with more than 800,000 residents); s. 212.055(7), F.S. (for counties with less than 800,000 residents)

⁷ Section 212.055(4)(b), F.S.

⁸ Section 212.055(5), F.S.

⁹ Section 212.055(6), F.S.

¹⁰ Section 212.055(7), F.S.

¹¹ Section 212.054(4)(a), F.S.

¹² Section 212.054(4)(b), F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 212.054(5), F.S.

¹⁷ Section 212.054(7)(a), F.S.

information DOR requires by rule.¹⁸ If the county or school district fails to provide timely notice, the effective date of the change is delayed by one year.¹⁹ Counties and school districts are also required to notify DOR if a referendum or consideration of an ordinance to impose, terminate, or change the rate of a surtax is to occur after October 1.²⁰

The forty-nine counties and fifteen school districts levying one or more discretionary sales surtaxes are projected to realize \$2.2 billion in revenue in fiscal year 2016-17.²¹ If all counties and school districts levied discretionary sales surtaxes at the maximum possible rate, they would be projected to raise \$10.87 billion in revenue in fiscal year 2015-16.²²

Local discretionary sales surtaxes are generally approved by referendum.²³ The referendum must be approved by a majority of electors voting.²⁴ Except for the emergency fire rescue services and facilities surtax, the date of the referendum is at the discretion of the county commission.²⁵

Referendum Process

The Florida Election Code sets forth the general requirements for a referendum.²⁶ The question presented to voters must contain a ballot summary with clear and unambiguous language, such that a “yes” or “no” vote on the measure indicates approval or rejection, respectively.²⁷ The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.²⁸ The ballot summary and title must be included in the resolution or ordinance calling for the referendum.²⁹ For some discretionary sales surtaxes, the form of the ballot question is specified by statute.³⁰

Five types of elections exist under the Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.³¹ A “general election” is held on the first Tuesday after the first Monday in November in even-numbered years to fill national, state, county, and district offices, and for voting on constitutional amendments.³²

Effect of Proposed Changes

The bill requires any referendum to levy a discretionary sales surtax to be approved by 60 percent of the electors voting and requires the referendum be held on the day of a general election. The bill also defines the term “day of a general election” as being the day that a general election, as defined in s. 97.021, F.S., is held. Section 97.021, F.S., defines “general election” as meaning “an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Section 212.054(7)(b), F.S. The deadline for this notification is October 1.

²¹ *2016 Florida Tax Handbook*, Office of Economic and Demographic Research, p. 216.

²² *Id.*

²³ Section 212.055, F.S., *but see* s. 212.055(3), F.S. (small county surtax may be approved by extraordinary vote of the county commission, as long as surtax revenues are not used for servicing bond indebtedness), s. 212.055(4), F.S. (indigent care and trauma center surtax may be approved by extraordinary vote of the county commission), and s. 212.055(5), F.S. (county public hospital surtax may be approved by extraordinary vote of the county commission).

²⁴ Section 212.055, F.S.

²⁵ *E.g.* s. 212.055(1)(c), F.S. (referendum for charter county and regional transportation system to be held at a time “set at the discretion of the governing body”); *but see* s. 212.055(8)(b), F.S. (referendum for emergency fire rescue services and facilities surtax must be placed on the ballot of a “regularly scheduled election”).

²⁶ Section 101.161, F.S.

²⁷ Section 101.161(1), F.S.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *See* s. 212.055(4)(b)1., F.S. (ballot question for discretionary sales surtax for trauma centers).

³¹ Section 97.021(11), F.S.

³² Art. VI, s. 5(a), Fla. Const. (also codified as s. 97.021(15), F.S.)

filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.”

The bill also prohibits a county or school district from spending state or county funds or using their materials or publications to promote or advertise the surtax referendum, except where funds are specifically appropriated for that purpose.

B. SECTION DIRECTORY:

Section 1: Amends 212.055, F.S., requiring discretionary sales surtax referendums to be held on the day of the general election and approved by 60 percent of electors voting.

Section 2: Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not evaluated the bill. If the higher voter approval threshold required by the bill prevents some levies from being approved that would have been approved otherwise, then the revenue impact of the bill is negative to local governments. However, the extent to which that may happen is unknown.

2. Expenditures:

By requiring any discretionary sales surtax referendum to occur on the day of the general election, this bill reduces local government expenditures to the extent local governments would otherwise expend funds to call a special election for approval of a discretionary sales surtax.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Subsection 18(b) of article VII of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenues in the aggregate. It is unclear whether increasing the required percentage of voter approval to adopt a discretionary

sales surtax resulting from this bill represents a reduction of revenue raising authority as contemplated by subsection 18(b). If the purpose of subsection 18(b) is to determine whether the amount of potential revenue available to counties and municipalities was reduced, then this bill does not reduce that potential and the requirement for a two-thirds vote is not applicable. However, if the purpose of subsection 18(b) is to look at the method for adopting a discretionary sales surtax, then the provisions of this bill requiring a supermajority vote to adopt a millage rate that could currently be adopted by a majority vote may be considered a mandate requiring a two-thirds vote of the Legislature. There is no legal authority to guide the Legislature in making a determination regarding this issue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill creates s. 212.055(9), F.S., prohibiting the county or school district from using state funds and county funds, materials, and publications to “promote or advertise” the proposed surtax referendum, except where the county or school district has specifically appropriated funds for that purpose. It is unclear if this language is intended to prohibit the county or school district from using funds, materials, or publications to encourage a vote in the affirmative on the referendum, or to prohibit the county or school district from making voters aware of the referendum more generally. Section 106.113, F.S., currently prohibits local government entities from using public funds to advertise or for electioneering concerning referenda, with an exception for communications limited to factual information.

General elections only occur in even-numbered years.³³ Counties wishing to begin levying a discretionary sales surtax in an even numbered, or wishing to extend a discretionary sales surtax that expires at the end of an odd-numbered year will have to get voter approval sooner under the provisions of the bill than under current law.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 13, 2016, the Local Government Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment changes the effective date of the bill to July 1, 2017.

This analysis is drawn to the bill as amended.

³³ Section 97.021(15), F.S.
STORAGE NAME: h0791b.FTC.DOCX
DATE: 1/21/2016

27 that any authorization for imposition of a discretionary sales
 28 surtax shall be published in the Florida Statutes as a
 29 subsection of this section, irrespective of the duration of the
 30 levy. Each enactment shall specify the types of counties
 31 authorized to levy; the rate or rates which may be imposed; the
 32 maximum length of time the surtax may be imposed, if any; the
 33 procedure which must be followed to secure voter approval, if
 34 required; the purpose for which the proceeds may be expended;
 35 and such other requirements as the Legislature may provide.
 36 Taxable transactions and administrative procedures shall be as
 37 provided in s. 212.054.

38 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
 39 SURTAX.—

40 (c) The proposal to adopt a discretionary sales surtax as
 41 provided in this subsection and to create a trust fund within
 42 the county accounts shall be placed on the ballot in accordance
 43 with law and must be approved by at least 60 percent of the
 44 electors voting in a referendum held on the day of a general
 45 election ~~at a time to be set at the discretion of the governing~~
 46 ~~body.~~

47 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

48 (a)1. The governing authority in each county may levy a
 49 discretionary sales surtax of 0.5 percent or 1 percent. The levy
 50 of the surtax shall be pursuant to ordinance enacted by a
 51 majority of the members of the county governing authority and
 52 approved by at least 60 percent ~~a majority~~ of the electors of

53 | the county voting in a referendum on the surtax held on the day
 54 | of a general election. If the governing bodies of the
 55 | municipalities representing a majority of the county's
 56 | population adopt uniform resolutions establishing the rate of
 57 | the surtax and calling for a referendum on the surtax, the levy
 58 | of the surtax shall be placed on the ballot and shall take
 59 | effect if approved by at least 60 percent ~~a majority~~ of the
 60 | electors of the county voting in the referendum on the surtax
 61 | held on the day of a general election.

62 | 2. If the surtax was levied pursuant to a referendum held
 63 | before July 1, 1993, the surtax may not be levied beyond the
 64 | time established in the ordinance, or, if the ordinance did not
 65 | limit the period of the levy, the surtax may not be levied for
 66 | more than 15 years. The levy of such surtax may be extended only
 67 | by approval of at least 60 percent ~~a majority~~ of the electors of
 68 | the county voting in a referendum on the surtax held on the day
 69 | of a general election.

70 | (3) SMALL COUNTY SURTAX.--

71 | (a) The governing authority in each county that has a
 72 | population of 50,000 or fewer ~~less~~ on April 1, 1992, may levy a
 73 | discretionary sales surtax of 0.5 percent or 1 percent. The levy
 74 | of the surtax shall be pursuant to ordinance enacted by an
 75 | extraordinary vote of the members of the county governing
 76 | authority if the surtax revenues are expended for operating
 77 | purposes. If the surtax revenues are expended for the purpose of
 78 | servicing bond indebtedness, the surtax shall be approved by at

79 | least 60 percent ~~a majority~~ of the electors of the county voting
 80 | in a referendum on the surtax held on the day of a general
 81 | election.

82 | (4) INDIGENT CARE AND TRAUMA CENTER SURTAX.—

83 | (a)1. The governing body in each county the government of
 84 | which is not consolidated with that of one or more
 85 | municipalities, which has a population of at least 800,000
 86 | residents and is not authorized to levy a surtax under
 87 | subsection (5), may levy, pursuant to an ordinance either
 88 | approved by an extraordinary vote of the governing body or
 89 | conditioned to take effect only upon approval by at least 60
 90 | percent ~~a majority vote~~ of the electors of the county voting in
 91 | a referendum, a discretionary sales surtax at a rate that may
 92 | not exceed 0.5 percent.

93 | 2. If the ordinance is conditioned on a referendum, a
 94 | statement that includes a brief and general description of the
 95 | purposes to be funded by the surtax and that conforms to the
 96 | requirements of s. 101.161 shall be placed on the ballot by the
 97 | governing body of the county. The referendum must be held on the
 98 | day of a general election. The following questions shall be
 99 | placed on the ballot:

100 | FOR THE. . . .CENTS TAX

101 | AGAINST THE. . . .CENTS TAX

102 | 3. The ordinance adopted by the governing body providing
 103 | for the imposition of the surtax shall set forth a plan for
 104 | providing health care services to qualified residents, as

105 defined in subparagraph 4. Such plan and subsequent amendments
 106 to it shall fund a broad range of health care services for both
 107 indigent persons and the medically poor, including, but not
 108 limited to, primary care and preventive care as well as hospital
 109 care. The plan must also address the services to be provided by
 110 the Level I trauma center. It shall emphasize a continuity of
 111 care in the most cost-effective setting, taking into
 112 consideration both a high quality of care and geographic access.
 113 Where consistent with these objectives, it shall include,
 114 without limitation, services rendered by physicians, clinics,
 115 community hospitals, mental health centers, and alternative
 116 delivery sites, as well as at least one regional referral
 117 hospital where appropriate. It shall provide that agreements
 118 negotiated between the county and providers, including hospitals
 119 with a Level I trauma center, will include reimbursement
 120 methodologies that take into account the cost of services
 121 rendered to eligible patients, recognize hospitals that render a
 122 disproportionate share of indigent care, provide other
 123 incentives to promote the delivery of charity care, promote the
 124 advancement of technology in medical services, recognize the
 125 level of responsiveness to medical needs in trauma cases, and
 126 require cost containment including, but not limited to, case
 127 management. It must also provide that any hospitals that are
 128 owned and operated by government entities on May 21, 1991, must,
 129 as a condition of receiving funds under this subsection, afford
 130 public access equal to that provided under s. 286.011 as to

131 meetings of the governing board, the subject of which is
 132 budgeting resources for the rendition of charity care as that
 133 term is defined in the Florida Hospital Uniform Reporting System
 134 (FHURS) manual referenced in s. 408.07. The plan shall also
 135 include innovative health care programs that provide cost-
 136 effective alternatives to traditional methods of service
 137 delivery and funding.

138 4. For the purpose of this paragraph, the term "qualified
 139 resident" means residents of the authorizing county who are:

140 a. Qualified as indigent persons as certified by the
 141 authorizing county;

142 b. Certified by the authorizing county as meeting the
 143 definition of the medically poor, defined as persons having
 144 insufficient income, resources, and assets to provide the needed
 145 medical care without using resources required to meet basic
 146 needs for shelter, food, clothing, and personal expenses; or not
 147 being eligible for any other state or federal program, or having
 148 medical needs that are not covered by any such program; or
 149 having insufficient third-party insurance coverage. In all
 150 cases, the authorizing county is intended to serve as the payor
 151 of last resort; or

152 c. Participating in innovative, cost-effective programs
 153 approved by the authorizing county.

154 5. Moneys collected pursuant to this paragraph remain the
 155 property of the state and shall be distributed by the Department
 156 of Revenue on a regular and periodic basis to the clerk of the

157 circuit court as ex officio custodian of the funds of the
 158 authorizing county. The clerk of the circuit court shall:
 159 a. Maintain the moneys in an indigent health care trust
 160 fund;
 161 b. Invest any funds held on deposit in the trust fund
 162 pursuant to general law;
 163 c. Disburse the funds, including any interest earned, to
 164 any provider of health care services, as provided in
 165 subparagraphs 3. and 4., upon directive from the authorizing
 166 county. However, if a county has a population of at least
 167 800,000 residents and has levied the surtax authorized in this
 168 paragraph, notwithstanding any directive from the authorizing
 169 county, on October 1 of each calendar year, the clerk of the
 170 court shall issue a check in the amount of \$6.5 million to a
 171 hospital in its jurisdiction that has a Level I trauma center or
 172 shall issue a check in the amount of \$3.5 million to a hospital
 173 in its jurisdiction that has a Level I trauma center if that
 174 county enacts and implements a hospital lien law in accordance
 175 with chapter 98-499, Laws of Florida. The issuance of the checks
 176 on October 1 of each year is provided in recognition of the
 177 Level I trauma center status and shall be in addition to the
 178 base contract amount received during fiscal year 1999-2000 and
 179 any additional amount negotiated to the base contract. If the
 180 hospital receiving funds for its Level I trauma center status
 181 requests such funds to be used to generate federal matching
 182 funds under Medicaid, the clerk of the court shall instead issue

183 a check to the Agency for Health Care Administration to
 184 accomplish that purpose to the extent that it is allowed through
 185 the General Appropriations Act; and

186 d. Prepare on a biennial basis an audit of the trust fund
 187 specified in sub-subparagraph a. Commencing February 1, 2004,
 188 such audit shall be delivered to the governing body and to the
 189 chair of the legislative delegation of each authorizing county.

190 6. Notwithstanding any other provision of this section, a
 191 county shall not levy local option sales surtaxes authorized in
 192 this paragraph and subsections (2) and (3) in excess of a
 193 combined rate of 1 percent.

194 (b) Notwithstanding any other provision of this section,
 195 the governing body in each county the government of which is not
 196 consolidated with that of one or more municipalities and which
 197 has a population of fewer ~~less~~ than 800,000 residents, may levy,
 198 by ordinance subject to approval by at least 60 percent a
 199 ~~majority~~ of the electors of the county voting in a referendum, a
 200 discretionary sales surtax at a rate that may not exceed 0.25
 201 percent for the sole purpose of funding trauma services provided
 202 by a trauma center licensed pursuant to chapter 395. The
 203 referendum must be held on the day of a general election.

204 1. A statement that includes a brief and general
 205 description of the purposes to be funded by the surtax and that
 206 conforms to the requirements of s. 101.161 shall be placed on
 207 the ballot by the governing body of the county. The following
 208 shall be placed on the ballot:

209 FOR THE. . . .CENTS TAX

210 AGAINST THE. . . .CENTS TAX

211 2. The ordinance adopted by the governing body of the
 212 county providing for the imposition of the surtax shall set
 213 forth a plan for providing trauma services to trauma victims
 214 presenting in the trauma service area in which such county is
 215 located.

216 3. Moneys collected pursuant to this paragraph remain the
 217 property of the state and shall be distributed by the Department
 218 of Revenue on a regular and periodic basis to the clerk of the
 219 circuit court as ex officio custodian of the funds of the
 220 authorizing county. The clerk of the circuit court shall:

221 a. Maintain the moneys in a trauma services trust fund.

222 b. Invest any funds held on deposit in the trust fund
 223 pursuant to general law.

224 c. Disburse the funds, including any interest earned on
 225 such funds, to the trauma center in its trauma service area, as
 226 provided in the plan set forth pursuant to subparagraph 2., upon
 227 directive from the authorizing county. If the trauma center
 228 receiving funds requests such funds be used to generate federal
 229 matching funds under Medicaid, the custodian of the funds shall
 230 instead issue a check to the Agency for Health Care
 231 Administration to accomplish that purpose to the extent that the
 232 agency is allowed through the General Appropriations Act.

233 d. Prepare on a biennial basis an audit of the trauma
 234 services trust fund specified in sub-subparagraph a., to be

235 delivered to the authorizing county.

236 4. A discretionary sales surtax imposed pursuant to this
 237 paragraph shall expire 4 years after the effective date of the
 238 surtax, unless reenacted by ordinance subject to approval by at
 239 least 60 percent ~~a majority~~ of the electors of the county voting
 240 in a subsequent referendum held on the day of a general
 241 election.

242 5. Notwithstanding any other provision of this section, a
 243 county shall not levy local option sales surtaxes authorized in
 244 this paragraph and subsections (2) and (3) in excess of a
 245 combined rate of 1 percent.

246 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined
 247 in s. 125.011(1) may levy the surtax authorized in this
 248 subsection pursuant to an ordinance either approved by
 249 extraordinary vote of the county commission or conditioned to
 250 take effect only upon approval by at least 60 percent ~~a majority~~
 251 ~~vote~~ of the electors of the county voting in a referendum. In a
 252 county as defined in s. 125.011(1), for the purposes of this
 253 subsection, "county public general hospital" means a general
 254 hospital as defined in s. 395.002 which is owned, operated,
 255 maintained, or governed by the county or its agency, authority,
 256 or public health trust.

257 (a) The rate shall be 0.5 percent.

258 (b) If the ordinance is conditioned on a referendum, the
 259 proposal to adopt the county public hospital surtax shall be
 260 placed on the ballot in accordance with law ~~at a time to be set~~

261 ~~at the discretion of the governing body.~~ The referendum must be
 262 held on the day of a general election. The referendum question
 263 on the ballot shall include a brief general description of the
 264 health care services to be funded by the surtax.

265 (c) Proceeds from the surtax shall be:

266 1. Deposited by the county in a special fund, set aside
 267 from other county funds, to be used only for the operation,
 268 maintenance, and administration of the county public general
 269 hospital; and

270 2. Remitted promptly by the county to the agency,
 271 authority, or public health trust created by law which
 272 administers or operates the county public general hospital.

273 (d) Except as provided in subparagraphs 1. and 2., the
 274 county must continue to contribute each year an amount equal to
 275 at least 80 percent of that percentage of the total county
 276 budget appropriated for the operation, administration, and
 277 maintenance of the county public general hospital from the
 278 county's general revenues in the fiscal year of the county
 279 ending September 30, 1991:

280 1. Twenty-five percent of such amount must be remitted to
 281 a governing board, agency, or authority that is wholly
 282 independent from the public health trust, agency, or authority
 283 responsible for the county public general hospital, to be used
 284 solely for the purpose of funding the plan for indigent health
 285 care services provided for in paragraph (e);

286 2. However, in the first year of the plan, a total of \$10

287 million shall be remitted to such governing board, agency, or
 288 authority, to be used solely for the purpose of funding the plan
 289 for indigent health care services provided for in paragraph (e),
 290 and in the second year of the plan, a total of \$15 million shall
 291 be so remitted and used.

292 (e) A governing board, agency, or authority shall be
 293 chartered by the county commission upon this act becoming law.
 294 The governing board, agency, or authority shall adopt and
 295 implement a health care plan for indigent health care services.
 296 The governing board, agency, or authority shall consist of no
 297 more than seven and no fewer than five members appointed by the
 298 county commission. The members of the governing board, agency,
 299 or authority shall be at least 18 years of age and residents of
 300 the county. No member may be employed by or affiliated with a
 301 health care provider or the public health trust, agency, or
 302 authority responsible for the county public general hospital.
 303 The following community organizations shall each appoint a
 304 representative to a nominating committee: the South Florida
 305 Hospital and Healthcare Association, the Miami-Dade County
 306 Public Health Trust, the Dade County Medical Association, the
 307 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
 308 County. This committee shall nominate between 10 and 14 county
 309 citizens for the governing board, agency, or authority. The
 310 slate shall be presented to the county commission and the county
 311 commission shall confirm the top five to seven nominees,
 312 depending on the size of the governing board. Until such time as

313 the governing board, agency, or authority is created, the funds
 314 provided for in subparagraph (d)2. shall be placed in a
 315 restricted account set aside from other county funds and not
 316 disbursed by the county for any other purpose.

317 1. The plan shall divide the county into a minimum of four
 318 and maximum of six service areas, with no more than one
 319 participant hospital per service area. The county public general
 320 hospital shall be designated as the provider for one of the
 321 service areas. Services shall be provided through participants'
 322 primary acute care facilities.

323 2. The plan and subsequent amendments to it shall fund a
 324 defined range of health care services for both indigent persons
 325 and the medically poor, including primary care, preventive care,
 326 hospital emergency room care, and hospital care necessary to
 327 stabilize the patient. For the purposes of this section,
 328 "stabilization" means stabilization as defined in s.
 329 397.311(41). Where consistent with these objectives, the plan
 330 may include services rendered by physicians, clinics, community
 331 hospitals, and alternative delivery sites, as well as at least
 332 one regional referral hospital per service area. The plan shall
 333 provide that agreements negotiated between the governing board,
 334 agency, or authority and providers shall recognize hospitals
 335 that render a disproportionate share of indigent care, provide
 336 other incentives to promote the delivery of charity care to draw
 337 down federal funds where appropriate, and require cost
 338 containment, including, but not limited to, case management.

339 From the funds specified in subparagraphs (d)1. and 2. for
 340 indigent health care services, service providers shall receive
 341 reimbursement at a Medicaid rate to be determined by the
 342 governing board, agency, or authority created pursuant to this
 343 paragraph for the initial emergency room visit, and a per-member
 344 per-month fee or capitation for those members enrolled in their
 345 service area, as compensation for the services rendered
 346 following the initial emergency visit. Except for provisions of
 347 emergency services, upon determination of eligibility,
 348 enrollment shall be deemed to have occurred at the time services
 349 were rendered. The provisions for specific reimbursement of
 350 emergency services shall be repealed on July 1, 2001, unless
 351 otherwise reenacted by the Legislature. The capitation amount or
 352 rate shall be determined prior to program implementation by an
 353 independent actuarial consultant. In no event shall such
 354 reimbursement rates exceed the Medicaid rate. The plan must also
 355 provide that any hospitals owned and operated by government
 356 entities on or after the effective date of this act must, as a
 357 condition of receiving funds under this subsection, afford
 358 public access equal to that provided under s. 286.011 as to any
 359 meeting of the governing board, agency, or authority the subject
 360 of which is budgeting resources for the retention of charity
 361 care, as that term is defined in the rules of the Agency for
 362 Health Care Administration. The plan shall also include
 363 innovative health care programs that provide cost-effective
 364 alternatives to traditional methods of service and delivery

365 funding.

366 3. The plan's benefits shall be made available to all
 367 county residents currently eligible to receive health care
 368 services as indigents or medically poor as defined in paragraph
 369 (4) (d).

370 4. Eligible residents who participate in the health care
 371 plan shall receive coverage for a period of 12 months or the
 372 period extending from the time of enrollment to the end of the
 373 current fiscal year, per enrollment period, whichever is less.

374 5. At the end of each fiscal year, the governing board,
 375 agency, or authority shall prepare an audit that reviews the
 376 budget of the plan, delivery of services, and quality of
 377 services, and makes recommendations to increase the plan's
 378 efficiency. The audit shall take into account participant
 379 hospital satisfaction with the plan and assess the amount of
 380 poststabilization patient transfers requested, and accepted or
 381 denied, by the county public general hospital.

382 (f) Notwithstanding any other provision of this section, a
 383 county may not levy local option sales surtaxes authorized in
 384 this subsection and subsections (2) and (3) in excess of a
 385 combined rate of 1 percent.

386 (6) SCHOOL CAPITAL OUTLAY SURTAX.—

387 (a) The school board in each county may levy, pursuant to
 388 resolution conditioned to take effect only upon approval by at
 389 least 60 percent ~~a majority vote~~ of the electors of the county
 390 voting in a referendum, a discretionary sales surtax at a rate

391 that may not exceed 0.5 percent. The referendum must be held on
 392 the day of a general election.

393 (7) VOTER-APPROVED INDIGENT CARE SURTAX.—

394 (a)1. The governing body in each county that has a
 395 population of fewer than 800,000 residents may levy an indigent
 396 care surtax pursuant to an ordinance conditioned to take effect
 397 only upon approval by at least 60 percent ~~a majority vote~~ of the
 398 electors of the county voting in a referendum held on the day of
 399 a general election. The surtax may be levied at a rate not to
 400 exceed 0.5 percent, except that if a publicly supported medical
 401 school is located in the county, the rate shall not exceed 1
 402 percent.

403 2. Notwithstanding subparagraph 1., the governing body of
 404 any county that has a population of fewer than 50,000 residents
 405 may levy an indigent care surtax pursuant to an ordinance
 406 conditioned to take effect only upon approval by at least 60
 407 percent ~~a majority vote~~ of the electors of the county voting in
 408 a referendum held on the day of a general election. The surtax
 409 may be levied at a rate not to exceed 1 percent.

410 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

411 (b) Upon the adoption of the ordinance, the levy of the
 412 surtax must be placed on the ballot by the governing authority
 413 of the county enacting the ordinance. The ordinance will take
 414 effect if approved by at least 60 percent ~~a majority~~ of the
 415 electors of the county voting in a referendum held on the day of
 416 a general election ~~for such purpose. The referendum shall be~~

417 ~~placed on the ballot of a regularly scheduled election.~~ The
 418 ballot for the referendum must conform to the requirements of s.
 419 101.161.

420 (9) FUNDING FOR DISCRETIONARY SALES SURTAXES.—Except for
 421 the use of county or school district funds appropriated
 422 specifically for the purpose of promoting or advertising a
 423 proposed surtax, a county or school district may not expend
 424 state or county funds or use county or school district materials
 425 or publications to promote or advertise a proposed surtax
 426 referendum to the electors of the county for any surtax
 427 identified in this section.

428 (10) DEFINITION.—For purposes of this section, the term
 429 "day of a general election" means the day that a general
 430 election, as defined in s. 97.021, is held, which as provided in
 431 s. 5, Art. VI of the State Constitution may be suspended or
 432 delayed due to a state of emergency or impending emergency.

433 Section 2. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 895 West Manatee Fire and Rescue District, Manatee County
SPONSOR(S): Local Government Affairs Subcommittee, Boyd
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	8 Y, 0 N, As CS	Monroe	Miller
2) Finance & Tax Committee		Pewitt <i>JP</i>	Langston <i>JS</i>
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

The West Manatee Fire and Rescue District (District) was created by Chapter 2000-401, Laws of Florida, which merged the Anna Maria Fire Control District and the Westside Fire Control District. As part of merging the two earlier districts, Chapter 2000-401 provided specific details regarding the initial composition of the board and arranged for the length of those initial terms in order to provide for staggered elections of the board members. This local bill removes those provisions as obsolete and confirms the terms of current board members. It also provides that all terms of board members elected in the future will be four year terms.

In addition, Chapter 2000-401, Laws of Florida, as amended by Chapter 2001-334, Laws of Florida, provides for the levy of non-ad valorem assessments by the District and the procedures regarding such assessments, including a listing of maximum assessment rates for various parcels. This bill removes that list, leaving the levying of non-ad valorem assessments to be governed by the provisions of s. 191.009(2), F.S.. reflecting actual practice in recent years as general law provisions have superseded those of the special acts. Finally, the bill confirms the current non-ad valorem rates being levied by the District which were adopted by District resolution on July 16, 2015, pursuant to s. 191.009(2), F.S..

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district¹ created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.² Chapter 191, F.S., the "Independent Special Fire Control District Act," is intended to provide standards, direction, and procedures for greater uniformity in the operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and election of members to the governing boards for greater public accountability.³ Chapter 191 controls over more specific provisions in any special act or general law of local application creating an independent fire control district's charter.⁴ The Chapter requires every independent fire control district be governed by a five-member board⁵ and provides for:

- General powers;⁶
- Special powers;⁷
- Authority and procedures for the assessment and collection of ad valorem taxes;⁸
- Authority and procedures for the imposition, levy, and collection of non-ad valorem assessments, charges, and fees;⁹ and
- Issuance of district bonds and evidences of debt.¹⁰

As a type of independent special district,¹¹ independent special fire control districts are also subject to applicable provisions of ch. 189, F.S., the "Uniform Special District Accountability Act."¹² That Act prohibits special laws or general laws of local application that:¹³

¹ A "special district" is a local government unit of "special purpose, as opposed to general purpose, operat[ed] within a limited boundary and created by general law, special act, local ordinance, or by rule of the Governor and Cabinet." S. 189.012(6), F.S. An "independent special district" is any special district that is not a "dependent special district," which is defined as a special district in which: the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the special district's governing body are removable at will during their unexpired terms by the governing body of a single county or municipality, or the district's budget is subject to the approval of the governing body of a single county or municipality. S. 189.012(3), F.S.

² Section 191.003(5), F.S.

³ Section 191.002, F.S.

⁴ Section 191.004, F.S. Provisions in other laws pertaining to district boundaries or geographical sub-districts for electing members to the governing board are excepted from this section. *Id.*

⁵ Section 191.005(1)(a), F.S. A fire control district may continue to be governed by a three-member board if authorized by special act adopted in or after 1997.

⁶ Section 191.006, F.S. (such as the power to sue and be sued in the name of the district, the power to contract, and the power of eminent domain).

⁷ Section 191.008, F.S.

⁸ Section 191.006(14); 191.009(1), F.S.

⁹ Section 191.006(11), (15), 191.009(2)—(4), 191.011, F.S.

¹⁰ Section 191.012, F.S.

¹¹ Section 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.

¹² Section 189.031, F.S.

¹³ Article III, s. 11(a)(21), Fla. Const. (enabling the prohibition of any special law or general law of local application on a subject, if such prohibition is passed as a general law approved by three-fifths vote of the membership of each house. A general law passed in this manner may be amended or repealed by "like vote." The "Uniform Special District

- Create special districts which do not conform with the minimum requirements for district charters under s. 189.031(3), F.S.;¹⁴
- Exempt district elections from the requirements of s. 189.04, F.S.;¹⁵
- Exempt a district from the requirements for bond referenda under s. 189.042, F.S.;¹⁶
- Exempt a district from the requirements for reporting, notice, or public meetings under ss. 189.015, 189.016, 189.051, or 189.08, F.S.;¹⁷
- Create a district for which a statement documenting the following is not submitted to the Legislature:
 - The purpose of the proposed district;
 - The authority of the proposed district;
 - An explanation of why the district is the best alternative; and
 - A resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating that the proposed district is consistent with approved local government plans and the local government does not object to creation of the district.¹⁸

An independent special district, as an entity created by the Legislature, only possesses the powers granted by the authorizing law.¹⁹ A special district may not levy ad valorem taxes without approval by the effected voters in a referendum.²⁰

Section 191.005, F. S., provides for the election of the district board of commissioners, including its membership, officers, and meetings. The initial District charter²¹ complied with this general law requirement and provided for both the initial board members and the initial elections and term lengths for those board members.

Under s. 191.009, F.S., districts are authorized to levy ad valorem taxes and non-ad valorem assessments for district purposes. Each district is authorized by this general provision to levy ad valorem taxes up to 3.75 mills, upon voter approval, notwithstanding lower millage caps in the special acts of individual districts. This provision applies unless a higher amount has previously been authorized. In that event, the higher, previously authorized rate applies.²²

Non-ad valorem assessments levied by independent fire districts are governed by s. 191.009(2), F.S., which includes requirements for the levying of such assessments and limitations on the growth of the assessment rates. The rate of non-ad valorem assessments must be set by resolution properly adopted by the board of the District, and may exceed the maximum rates set in the authorizing act, county ordinance, the previous year's resolution, or referendum by up to the average growth rate in Florida personal income over the previous 5 years.²³ The District first adopted rates which exceeded the caps set in the authorizing act in 2006. On July 16, 2015, the District's board adopted resolution 2015-03, establishing the current rates for non-ad valorem assessments in the District.²⁴

Accountability Act" (ch. 89-169, s. 67, Laws of Fla.) was originally passed by a three-fifths majority in each the House and the Senate.

¹⁴ Section 189.031(2)(a), F.S.

¹⁵ Section 189.031(2)(b), F.S.

¹⁶ Section 189.031(2)(c), F.S.

¹⁷ Section 189.031(2)(d), F.S.

¹⁸ Section 189.031(2)(e), F.S.

¹⁹ *Bd. of Comm'rs of Jupiter Inlet Dist. v. Thibadeau*, 956 So. 2d 529, 531 (Fla. 4th DCA 2007).

²⁰ Article VII, s. 9(b), Fla. Const.

²¹ Ch. 2000-401, Laws of Fla.

²² Section 191.009(1), F.S.

²³ Section 191.009(2)(a), F.S.

²⁴ West Manatee Fire & Rescue District Resolution 2015-03, at <http://www.wmfr.org/financials/> (accessed 1/7/2016). See Minutes of West Manatee Fire & Rescue District Commission Regular Meeting for July 16, 2015, at www.wmfr.org/wp-content/uploads/2015/07/Board-Minutes-Jul-16-2015.pdf (accessed 1/17/2016).

The District's enabling act also includes specific provisions regarding the levy of special assessments and the procedures regarding such assessment. Under the enabling act, assessments are based on property type which has been divided into three categories. The three categories are vacant parcels, residential parcels, and commercial parcels.²⁵ The amount of the assessment depends on not only what type of parcel the property is, but also the square footage of the home/building. The enabling act was amended by Chapter 2001-334, Laws of Florida, to provide that this list of assessment amounts is a listing of the maximum rates which may be assessed.²⁶

Proposed Changes

Chapter 2000-401, Laws of Florida, provided specific details regarding the initial composition of the board and arranged the initial terms in order to provide for staggered elections of the board members. This bill removes those provisions as obsolete and confirms the terms of current board members. It also provides that all terms of board members elected in the future will be four year terms.

In addition, Chapter 2000-401, Laws of Florida, as amended by Chapter 2001-334, Laws of Florida, provided for the levy of non-ad valorem assessments and the procedures regarding such assessments, including a listing of maximum assessment rates for various parcels. This bill removes that list, leaving the levying of non-ad valorem assessments to be governed by the provisions of s. 191.009(2), F.S.. Finally, the bill confirms the current non-ad valorem rates being levied by the District which were adopted by resolution on July 16, 2015, pursuant to s. 191.009(2), F.S..

B. SECTION DIRECTORY:

Section 1 amends Chapter 2000-401, Laws of Florida, as amended by Chapter 2001-334, Laws of Florida, which is the enabling act of the West Manatee Fire and Rescue District. The bill removes obsolete provisions regarding the initial board members and their terms and confirms the terms of current board members. It also provides that all terms of board members elected in the future will be four year terms. In addition, it removes the schedule of maximum non-ad valorem assessments which was contained in Chapter 2000-401, Laws of Florida, as amended by Chapter 2001-334, Laws of Florida, leaving the levying of non-ad valorem assessments to be governed by the provisions of s. 191.009(2), F.S.. Finally, the bill confirms the current non-ad valorem rates being levied by the District which were adopted by resolution on July 16, 2015, pursuant to s. 191.009(2), F.S..

Section 2 provides that this bill shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? September 16, 2015

WHERE? Manatee County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

²⁵ Ch. 2000-401, Section 13 of Section 2, Laws of Fla.

²⁶ Ch. 2001-334, Section 1, Laws of Fla.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 13, 2016 the Local Government Affairs subcommittee adopted one amendment which removed a sentence stating that "the district is authorized to exceed the maximum assessment rates established in this act." Since the bill also removed the listing of maximum assessment rates in the act, the sentence was not functional. In addition, the bill corrected the date that Resolution 2015-03 was adopted.

This analysis is drafted to the bill as amended.

1 A bill to be entitled

2 An act relating to the West Manatee Fire and Rescue
 3 District, Manatee County; amending chapter 2000-401,
 4 as amended; revising provisions related to the terms
 5 of the members of the district's board of
 6 commissioners; deleting obsolete provisions relating
 7 to the initial board of commissioners; providing for
 8 continuation of the staggered terms of commissioners;
 9 confirming certain non-ad valorem assessment rates
 10 adopted by the district on a specified date;
 11 specifying that the district may amend the non-ad
 12 valorem assessment rates as authorized by the
 13 district's enabling legislation as provided by general
 14 law; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Sections 4 and 13 of section 2 of chapter 2000-
 19 401, as amended by chapter 2001-334, Laws of Florida, are
 20 amended to read:

21 Section 4. District board of commissioners; membership,
 22 terms of office, officers, meetings.—The district board of
 23 commissioners shall conduct and administer the business affairs
 24 of the district through a five-member board which shall be
 25 elected in nonpartisan elections by the electors of the district
 26 for a term of 4 ~~four (4)~~ years, and each member shall serve

27 until the member's successor assumes office. A member of the
 28 board shall be a resident of the district and a citizen of the
 29 United States. No district board member shall be a paid employee
 30 of the district, and each board member shall continue to meet
 31 all qualifications to hold office continually through his or her
 32 term. Members of the district board shall take office at the
 33 same time as do county officers, being the second Tuesday
 34 following the general election in November. The board of
 35 commissioners shall be established and elected, and shall
 36 operate, organize and function in accordance with the provisions
 37 of section 191.005, Florida Statutes. The office of each member
 38 of the board is designated as being a seat, distinguished from
 39 each of the other seats of the board by a numeral; 1, 2, 3, 4, 4,
 40 or 5. The numerical seat designation does not reflect a
 41 geographical subdistrict or area of the district, but each
 42 candidate for a seat on the board shall designate, at the time
 43 the candidate qualifies, the seat for which the candidate is
 44 qualifying. The election for each seat shall be at-large within
 45 the district. ~~The initial board of commissioners, until~~
 46 ~~successors are elected and assume office, shall consist of the~~
 47 ~~officials who are then holding elected office as a district~~
 48 ~~board member for seats 1, 4 and 5 on the West Side Fire Control~~
 49 ~~District and seats 2 and 3 on the Anna Maria Fire Control~~
 50 ~~District as of the date immediately preceding the effective day~~
 51 ~~of this act. The commissioners holding seat 1 and 5 from West~~
 52 ~~Side Fire Control District and the commissioner hold seat 2 from~~

53 ~~the Anna Maria Fire Control District shall have initial terms of~~
 54 ~~four (4) years, with their terms expiring in November, 2004, as~~
 55 ~~provided in this section. The commissioner holding seat 4 from~~
 56 ~~the West Side Fire Control District and the commissioner holding~~
 57 ~~seat 3 from the Anna Maria Fire Control District shall have~~
 58 ~~initial terms of two (2) years, with their terms expiring in~~
 59 ~~November, 2002, as provided in this section. The foregoing~~
 60 ~~provisions establish an initial board having three (3)~~
 61 ~~commissioners, each with a 4-year ~~four (4) year~~ term, and two~~
 62 ~~(2) commissioners, each with a 2-year ~~two (2) year~~ term, thereby~~
 63 ~~establishing staggered terms for the board on the effective date~~
 64 ~~of this act. The terms of the current members of the board are~~
 65 ~~confirmed. Beginning in 2016, seats 1 and 5 shall be elected to~~
 66 ~~4-year terms. Beginning in 2018, seats 2, 3, and 4 shall be~~
 67 ~~elected to 4-year terms.~~

68 Section 13. Schedule of special assessments.—The
 69 provisions regarding assessment procedures as set forth above,
 70 represents the method to be followed by the district regarding
 71 any subsequent establishment or increase in special assessments
 72 for the district. The non-ad valorem assessment rates that the
 73 district currently charges pursuant to West Manatee Fire and
 74 Rescue District Resolution 2015-03, adopted July 16, 2015, are
 75 confirmed. The board may amend its assessment rates in
 76 accordance with s. 191.009, Florida Statutes, or as otherwise
 77 provided by general law. ~~Upon the effective date of this act,~~
 78 ~~but in no way limiting the ability of the district board to~~

79 ~~increase special assessments as necessary in keeping with this~~
 80 ~~charter, for assessment purposes, all property within the~~
 81 ~~district is divided into three general classifications: vacant~~
 82 ~~parcels, residential parcels, and commercial/industrial parcels.~~
 83 ~~The rates set forth in the schedule of non-ad valorem special~~
 84 ~~assessments provided by this section are caps on the district's~~
 85 ~~non-ad valorem assessment rates that may be levied without~~
 86 ~~approval of the Legislature.~~

87 ~~(1) Vacant parcels shall include all parcels which are~~
 88 ~~essentially undeveloped. The annual assessment for these parcels~~
 89 ~~shall be as follows:~~

90 ~~(a) A vacant platted lot, \$25 per lot.~~

91 ~~(b) Unsubdivided acreage, \$25 per acre or fraction~~
 92 ~~thereof; and,~~

93 ~~(c) A vacant commercial and industrial parcel shall be~~
 94 ~~assessed as a platted lot or unsubdivided acreage, as~~
 95 ~~applicable. Whenever a residential unit is located on a parcel~~
 96 ~~defined herein as vacant, the residential plot shall be~~
 97 ~~considered as one lot or one acre, with the balance of the~~
 98 ~~parcel being assessed as vacant land in accordance with the~~
 99 ~~schedule herein. When an a agricultural or commercial building~~
 100 ~~or structure is located on a parcel defined herein as vacant,~~
 101 ~~the building or structure shall be assessed in accordance with~~
 102 ~~the schedule of commercial/industrial assessments.~~

103 ~~(2) Residential parcels include all parcels which are~~
 104 ~~developed for residential purposes. All residential parcels~~

105 ~~shall be assessed by the number and square footage size of~~
 106 ~~dwelling units per parcel. Surcharges may be assigned by the~~
 107 ~~district for dwelling units located on the third or higher~~
 108 ~~floors. The annual assessment for these parcels shall be as~~
 109 ~~follows:~~

110 ~~(a) A single family residential parcel shall be assessed~~
 111 ~~on a square footage basis for each dwelling unit at \$125 for the~~
 112 ~~first 1,000 square feet in the dwelling unit, and all square~~
 113 ~~footage above 1,000 square feet shall be charged at a rate of~~
 114 ~~\$0.075 per additional square foot.~~

115 ~~(b) A parcel for residential condominium use shall be~~
 116 ~~assessed on a square footage basis for each dwelling unit at~~
 117 ~~\$125 for the first 1,000 square feet in the dwelling unit, and~~
 118 ~~all square footage above 1,000 square feet shall be charged at a~~
 119 ~~rate of \$0.075 per additional square foot.~~

120 ~~(c) A mobile home shall be assessed at \$125 per dwelling~~
 121 ~~unit;~~

122 ~~(d) A duplex, multi-family residential, cooperative,~~
 123 ~~retirement home and any miscellaneous residential-use parcel~~
 124 ~~shall be assessed on a square footage basis for each dwelling~~
 125 ~~unit at \$125 for the first 1,000 square feet in the dwelling~~
 126 ~~unit, and all square footage above 1,000 square feet shall be~~
 127 ~~charged at a rate of \$0.075 per additional square foot.~~

128 ~~(e) Any other residential unit, including, but not~~
 129 ~~limited, to the residential portions of mixed-use parcels and~~

130 ~~travel trailer units or parks shall be assessed \$125 per~~
 131 ~~dwelling unit or available rental space, as applicable.~~

132 ~~(3) Commercial/industrial parcels shall include all other~~
 133 ~~developed parcels which are not included in the residential~~
 134 ~~categories as defined in subsection (2). Each~~
 135 ~~commercial/industrial parcel shall be assessed on a square~~
 136 ~~footage basis for each building and structure in accordance with~~
 137 ~~the following schedule:~~

138 ~~(a) The base assessment for each building or structure~~
 139 ~~shall be \$300 for the first 1,000 square feet and all square~~
 140 ~~footage above 1,000 square feet, shall be charged at a rate of~~
 141 ~~\$0.125 per additional square foot.~~

142 ~~(b) Whenever a parcel is classified for multiple hazard~~
 143 ~~use, the district may vary the assessment in accordance with~~
 144 ~~actual categories.~~

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1039 Babcock Ranch Community Independent Special District, Charlotte and Lee Counties

SPONSOR(S): Caldwell

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	11 Y, 0 N	Monroe	Miller
2) Finance & Tax Committee		Aldridge <i>A</i>	Langston <i>B</i>
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

The Babcock Ranch Community Special District (District) is an independent district located in Charlotte County. This bill will expand the borders of the District to include seven parcels in Lee County, increasing the overall size of the District from approximately 13,630 acres to approximately 17,787 acres. The bill also makes conforming changes to the enabling act to reflect that the District will now be located in both Lee and Charlotte Counties. The bill updates statutory references to Chapter 189, F.S. Finally, the bill changes a provision regarding the District's public facilities report to indicate that the counties may, instead of shall, rely on that report when preparing or amending their comprehensive plan.

The bill provides that sections 6 and 7 shall take effect upon the bill becoming law.

Section 7 provides for the remaining sections of the bill, and the inclusion of property in Lee County, to be approved by a majority of qualified landowners within the existing district and within the seven parcels proposed for addition at a landowners' meeting to be held within 90 days from the effective date of the act.

Section 7 reiterates the provisions in the present charter that the District's authority to levy ad valorem taxes and issue general obligation bonds shall take effect only after approval by a majority of qualified electors in the District at a referendum to be conducted only after all members of the District's governing board themselves are qualified District voters elected by the other voters in the District.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Babcock Ranch Community Special District (District) is an independent special district created in 2007 and located in Charlotte County.¹ The boundaries of the district currently encompass approximately 13,630 acres in Charlotte County.² The purpose of the District is to plan, construct, maintain, operate, finance, and improve the provision of systems, facilities, and services necessary to meet the infrastructure needs of the Babcock Ranch Community – a sustainable, compact, mixed-use community.³

Proposed Changes

The bill will expand the borders of the District to include seven parcels in Lee County, increasing the overall size of the district from approximately 13,630 acres to approximately 17,787 acres total.

The bill also makes conforming changes to the enabling act to reflect that the District will now be located in both Lee and Charlotte Counties. These changes include changing the term “Charlotte County” to “Charlotte and Lee Counties” and changing references from “the county” to “the counties” or “the respective county.”

The bill provides that if an amendment to the District’s boundaries or powers is proposed which only affects one county, the District only need obtain a resolution or statement from the affected county before such change may be considered by the Legislature.

The bill also updates statutory references to ch. 189, F.S., to conform with the changes which have been made to the statute since 2007.

The bill specifies that ss. 6 and 7 of the bill will take effect upon becoming law. The remainder of the bill will take effect upon approval by a majority vote of the owners of the land within the district, including land in Charlotte and Lee Counties, who are not exempt from ad valorem taxes or non-ad valorem assessments and who are present in person or by proxy at a landowners’ meeting to be held within 90 days after this section is effective. Finally, this section reiterates the provisions in the present charter that the District’s authority to levy ad valorem taxes and issue general obligation bonds shall take effect only after approval by a majority of qualified electors in the District at a referendum to be conducted only after all members of the District’s governing board themselves are qualified District voters elected by the other voters in the District.⁴

Finally, the bill changes a provision regarding the District’s public facilities report to indicate that the Counties may, instead of shall, rely on that report when preparing or amending their comprehensive plan.

¹ Ch. 2007-306, Laws of Fla.

² Section 4, Chapter 2007-306, L.O.F.

³ Section 2, Chapter 2007-306, L.O.F.

⁴ Sections 5 and 6, Chapter 2007-306, L.O.F.

SECTION DIRECTORY:

- Section 1: Amends s. 2, ch. 2007-306, L.O.F., to amend definitions, specify how certain boundary or power amendments will be approved, and make changes conforming to the rest of the bill.
- Section 2: Amends s. 3, ch. 2007-306, L.O.F., to update statutory references and to make changes conforming to the rest of the bill.
- Section 3: Amends s. 4, ch. 2007-306, L.O.F., to expand the borders of the Babcock Ranch Community Special District.
- Section 4: Amends s. 5, ch. 2007-306, L.O.F., to update statutory references and to make changes conforming to the rest of the bill.
- Section 5: Amends s. 6, ch. 2007-306, L.O.F., to change certain reporting requirements, update statutory references and to make changes conforming to the rest of the bill.
- Section 6: Specifies that the election provided for in Section 7 of the bill will be held on a one-acre/one-vote basis.
- Section 7: Provides effective dates.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 21, 2015 and October 22, 2015

WHERE? Charlotte Sun and News-Press

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? At a landowner's meeting to be held within 90 days of the effective date of this act.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Babcock Ranch Community
 3 Independent Special District, Charlotte and Lee
 4 Counties; amending chapter 2007-306, Laws of Florida;
 5 expanding the Babcock Ranch Community Independent
 6 Special District to include areas of Lee County;
 7 amending legislative intent, definitions, legislative
 8 policy, district creation and establishment, governing
 9 board administrative duties, district budgets and
 10 financial reports, and district powers to include
 11 references to Lee County; amending the district's
 12 legal boundaries to include areas of Lee County;
 13 requiring district governing board election procedures
 14 to involve officials from both counties; requiring
 15 general obligation bond elections to occur in both
 16 counties; authorizing the levy and collection of non-
 17 ad valorem maintenance taxes in both counties;
 18 providing for required notices to be published in both
 19 counties; requiring a referendum; providing an
 20 effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Paragraphs (a), (g), (j), (n), (o), (p), and
 25 (q) of subsection (1), paragraphs (f) and (w) of subsection (2),

26 and paragraphs (a), (d), and (f) of subsection (3) of section 2
 27 of chapter 2007-306, Laws of Florida, are amended to read:

28 Section 2. Legislative findings and intent; definitions;
 29 policy.-

30 (1) LEGISLATIVE FINDINGS AND INTENT.-

31 (a) The unincorporated areas ~~area~~ of southeastern
 32 Charlotte County and northeastern Lee County, including the
 33 Babcock Ranch lands, are unique and special with a need towards
 34 protecting natural resources and retaining a viable agricultural
 35 system while protecting private property rights and promoting a
 36 sound economy.

37 (g) There are two alternatives for the creation of
 38 independent special districts for properties of this size: the
 39 establishment by rule of the Governor and Cabinet of one or more
 40 uniform community development districts over the property; and
 41 the establishment by special act of the Legislature of a single
 42 independent special district meeting the minimum requirements of
 43 chapter 189, Florida Statutes, the applicable district
 44 accountability general law. Use of this special act, created
 45 under chapter 189, Florida Statutes, is the better of the two
 46 alternatives in this case because it will allow for use of a
 47 single special district, with longer involvement and
 48 responsibility on the part of the initial landowner, which will
 49 result in better intergovernmental coordination and lower
 50 administrative costs for Charlotte County, Lee County, and the
 51 district, including its landowners and residents. ~~Additionally,~~

52 ~~use of this special act will provide the flexibility to include~~
 53 ~~within the district, at a later date, contiguous Babcock Ranch~~
 54 ~~lands within Lee County, whereas chapter 190, Florida Statutes,~~
 55 ~~would prevent a single uniform community development district~~
 56 ~~from crossing county lines.~~ Additionally, use of this special
 57 act updates the charter of a uniform community development
 58 district under chapter 190, Florida Statutes, eliminates
 59 potential for its abuse, clarifies and sets forth certain
 60 uniform procedures for liens on property, and makes other
 61 substantial reforms to the benefit of the people of Charlotte
 62 and Lee Counties County and future landowners, residents, and
 63 visitors.

64 (j) The existence and use of such a limited, specialized
 65 single-purpose local government for the Babcock Ranch Community,
 66 subject to the respective Charlotte county comprehensive plan
 67 and land development regulations, will result in a higher
 68 propensity to provide for orderly development and prevent urban
 69 sprawl; protect and preserve environmental and conservation uses
 70 and assets; potentially enhance the market value for both
 71 present and future landowners of the property consistent with
 72 the need to protect private property; potentially enhance the
 73 net economic benefit to Charlotte and Lee Counties County,
 74 including an enhanced tax base to the benefit of all present and
 75 future taxpayers in Charlotte and Lee Counties County; and
 76 result in the sharing of costs of providing certain systems,

77 facilities, and services in an innovative, sequential, and
 78 flexible manner within the area to be serviced by the district.

79 (n) In order to be responsive to the critical timing
 80 required through the exercise of its special management
 81 functions, an independent district requires financing of those
 82 functions, including bondable, lienable, and nonlienable
 83 revenue, with full and continuing public disclosure and
 84 accountability, funded by landowners, both present and future,
 85 and funded also by users of the systems, facilities, and
 86 services provided to the land area by the district, without
 87 burdening the taxpayers and citizens of the state, Charlotte
 88 County, Lee County, or any municipality therein.

89 (o) The district created and established by this act shall
 90 not exercise or have any comprehensive planning, zoning, or
 91 development permitting power; the establishment of the district
 92 shall not be considered a development order within the meaning
 93 of chapter 380, Florida Statutes; and all applicable planning
 94 and permitting laws, rules, regulations, agreements, and
 95 policies of Charlotte and Lee Counties ~~County~~ shall control the
 96 development of the land within each respective county to be
 97 served by the district.

98 (p) ~~The creation by This act of the Babcock Ranch~~
 99 ~~Community Independent Special District~~ is not inconsistent with
 100 either the Charlotte County or Lee County comprehensive plan.

101 (q) Neither Charlotte County nor Lee County objects ~~does~~
 102 ~~not object~~ to the creation of the district.

103 (2) DEFINITIONS.—As used in this act:

104 (f) "Babcock Ranch Community" means that portion of the
 105 Babcock Ranch to be developed with a new, sustainable, compact,
 106 mixed-use community pursuant to that certain Interlocal Planning
 107 Agreement for the Babcock Ranch, dated January 24, 2006, among
 108 the Florida Department of Community Affairs, Lee and Charlotte
 109 Counties, and the then contract purchaser of the Babcock Ranch,
 110 and pursuant to development approvals issued or to be issued by
 111 Lee and Charlotte Counties ~~County and Charlotte County~~,
 112 consisting of approximately 17,800 acres. ~~The subject of this~~
 113 ~~act is that portion of the Babcock Ranch Community located in~~
 114 ~~Charlotte County, consisting of approximately 13,631 acres, as~~
 115 described in section 4.

116 (w) "Qualified elector" means any person at least 18 years
 117 of age or older, who is a citizen of the United States, a legal
 118 resident of the state and the district, ~~and~~ who registers to
 119 vote with the Supervisor of Elections in Charlotte County or Lee
 120 County, and resides in either Charlotte County or Lee County.

121 (3) POLICY.—Based upon its findings, ascertainments,
 122 determinations, intent, purpose, and definitions, the
 123 Legislature states its policy expressly:

124 (a) The district and the district charter, with its
 125 general and special powers, as created in this act, are
 126 essential and the best alternative for the residential,
 127 commercial, and other community uses, projects, or functions in
 128 the included portions ~~portion~~ of Charlotte County and Lee County

129 consistent with the effective comprehensive plans and serve a
 130 lawful public purpose.

131 (d) The district shall operate and function subject to,
 132 and not inconsistent with, the applicable comprehensive plan of
 133 either Charlotte County or Lee County ~~comprehensive plan~~ and any
 134 applicable development orders, zoning regulations, and other
 135 land development regulations.

136 (f) This act may be amended, in whole or in part, only by
 137 subsequent special act of the Legislature. No amendment to this
 138 act that alters the district boundaries or the general or
 139 special powers of the district may be considered by the
 140 Legislature unless it is accompanied by a resolution or official
 141 statement as provided for in section 189.031(2)(e)4.
 142 ~~189.404(2)(e)4.~~, Florida Statutes. However, if an amendment
 143 alters the district boundaries in only one county, or affects
 144 the district's special powers in only one county, it is
 145 necessary to secure the resolution or statement from only the
 146 affected county.

147 Section 2. Subsection (1) of section 3 of chapter 2007-
 148 306, Laws of Florida, is amended to read:

149 Section 3. Creation and establishment; jurisdiction;
 150 construction; charter with legal description.-

151 (1) The Babcock Ranch Community Independent Special
 152 District, which also may be referred to as the "district," is
 153 created and incorporated as a public body corporate and politic,
 154 an independent, limited, special purpose local government, an

155 independent special district under section 189.031 ~~189.404~~,
 156 Florida Statutes, and as defined in this act and section
 157 189.012(3) ~~189.403(3)~~, Florida Statutes, in and for a certain
 158 portions ~~portion~~ of Charlotte County and Lee County. Any
 159 amendments to chapter 190, Florida Statutes, after January 1,
 160 2007, granting additional general powers, special powers,
 161 authorities, or projects to a community development district by
 162 amendment to its uniform charter, sections 190.006-190.041,
 163 Florida Statutes, shall constitute a general power, special
 164 power, authority, or function of the Babcock Ranch Community
 165 Independent Special District. All notices for the enactment by
 166 the Legislature of this special act have been provided pursuant
 167 to the State Constitution, laws of the state, and the Rules of
 168 the Florida House of Representatives and of the Florida Senate.

169 Section 3. Section 4 of chapter 2007-306, Laws of Florida,
 170 is amended to read:

171 Section 4. Legal description of the Babcock Ranch
 172 Community Independent Special District.-

173
 174 LEGAL DESCRIPTION. The metes and bounds legal
 175 description of the district, within which there are no
 176 parcels of property owned by those who do not wish
 177 their property to be included within the district, is
 178 as follows:

179
 180 CHARLOTTE COUNTY PARCEL:

181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206

A parcel of land lying within Sections 29, 31 through 33, Township 41 South, Range 26 East, AND, Sections 4 through 10, Sections 15 through 17 and Sections 19 through 36, Township 42 South, Range 26 East, Charlotte County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Section 31, Township 42 South, Range 26 East and run S89°41'45"E, along the South line of said Section 31, a distance of 50.00 feet to a point on the East right-of-way line of State Road No. 31, said point also being the Point of Beginning of the parcel of land herein described; Thence continue S89°41'45"E a distance of 5,189.75 feet to the Northeast corner of Section 6, Township 43 South, Range 26 East; Thence S89°41'45"E a distance of 5,306.08 feet to the Northeast corner of Section 5, Township 43 South, Range 26 East; Thence S89°37'16"E a distance of 5,289.11 feet to the Northeast corner of Section 4, Township 43 South, Range 26 East; Thence S89°35'44"E a distance of 5,294.60 feet to the Northeast corner of Section 3, Township 43 South, Range 26 East; Thence S89°35'44"E a distance of 5,294.60 feet to the Northeast corner of Section 2, Township 43 South, Range 26 East; Thence S89°35'44"E,

207 along the North line of Section 1, Township 43 South,
 208 Range 26 East, a distance of 3,430.66 feet; Thence
 209 N00°00'40"W a distance of 10,185.53 feet; Thence
 210 N05°46'23"E a distance of 1,058.56 feet; Thence
 211 N66°40'38"W a distance of 200.62 feet; Thence
 212 S83°12'47"W a distance of 1,373.33 feet; Thence
 213 N30°17'33"W a distance of 1,686.63 feet; Thence
 214 N70°02'41"W a distance of 1,332.41 feet; Thence
 215 S72°42'44"W a distance of 1,430.81 feet; Thence
 216 N49°18'31"W a distance of 2,362.25 feet; Thence
 217 S69°00'57"W a distance of 1,518.19 feet; Thence
 218 S21°08'17"W a distance of 865.44 feet; Thence
 219 S20°29'11"E a distance of 1,376.91 feet; Thence
 220 N74°38'25"E a distance of 1,635.69 feet; Thence
 221 S00°18'50"E a distance of 1,309.92 feet; Thence
 222 S89°45'02"W a distance of 4,154.48 feet; Thence
 223 N51°39'36"W a distance of 782.53 feet; Thence
 224 N04°14'12"E a distance of 1,329.59 feet; Thence
 225 N39°20'59"W a distance of 1,779.16 feet; Thence
 226 N42°01'35"W a distance of 1,162.94 feet; Thence
 227 S52°01'16"W a distance of 818.34 feet; Thence
 228 S62°56'46"W a distance of 516.42 feet; Thence
 229 S89°59'33"W a distance of 307.20 feet; Thence
 230 N80°06'18"W a distance of 334.84 feet; Thence
 231 N20°54'51"W a distance of 336.86 feet; Thence
 232 N05°03'05"E a distance of 533.35 feet; Thence

233 N22°47'49"E a distance of 5,490.82 feet; Thence
 234 N55°42'26"E a distance of 195.73 feet; Thence
 235 N21°59'06"W a distance of 1,739.17 feet; Thence
 236 N52°37'55"E a distance of 867.75 feet; Thence
 237 N13°36'57"W a distance of 2,507.33 feet; Thence
 238 S78°50'16"W a distance of 687.95 feet; Thence
 239 N19°48'25"W a distance of 366.25 feet; Thence
 240 N08°01'21"W a distance of 493.32 feet; Thence
 241 N03°43'40"E a distance of 687.22 feet; Thence
 242 N00°28'20"E a distance of 674.51 feet; Thence
 243 N25°12'33"W a distance of 261.13 feet; Thence
 244 N42°54'55"W a distance of 643.19 feet; Thence
 245 N07°19'37"W a distance of 171.40 feet; Thence
 246 N13°05'30"E a distance of 201.96 feet; Thence
 247 N32°40'01"W a distance of 186.12 feet; Thence
 248 N05°04'15"W a distance of 1,832.77 feet; Thence
 249 N19°47'08"W a distance of 527.20 feet; Thence
 250 N26°13'22"W a distance of 802.13 feet; Thence
 251 S79°06'55"W a distance of 475.20 feet; Thence
 252 N74°19'19"W a distance of 1,689.05 feet; Thence
 253 N01°26'06"W a distance of 897.42 feet; Thence
 254 N89°51'42"W a distance of 67.91 feet; Thence
 255 N00°00'03"W a distance of 1,218.37 feet; Thence
 256 N39°50'11"W a distance of 190.86 feet; Thence
 257 N00°00'29"W a distance of 324.62 feet; Thence
 258 N89°59'52"W a distance of 688.20 feet; Thence

259 N00°00'00"E a distance of 1,967.22 feet; Thence
 260 N41°13'25"W a distance of 2,825.17 feet; Thence
 261 S89°59'57"W a distance of 3,566.80 feet; Thence
 262 S00°00'03"E a distance of 2,799.34 feet; Thence
 263 S89°11'17"W a distance of 5,960.98 feet to a point
 264 lying 50.00 feet East of the East right-of-way line
 265 for State Road No. 31; Thence along a line 50.00 feet
 266 East of, and parallel with, the East right-of-way line
 267 for State Road No. 31, the following courses and
 268 distances: S00°48'43"E a distance of 2,976.13 feet and
 269 S00°34'01"W a distance of 786.25 feet; Thence
 270 S89°25'59"E a distance of 4,104.32 feet; Thence
 271 S00°01'22"E a distance of 2,084.04 feet; Thence
 272 S16°46'15"E a distance of 1,740.24 feet; Thence
 273 S09°11'59"W a distance of 1,325.85 feet; Thence
 274 S73°15'18"E a distance of 661.15 feet; Thence
 275 N59°20'29"E a distance of 577.75 feet; Thence
 276 S38°10'48"E a distance of 551.46 feet; Thence
 277 S86°25'58"E a distance of 385.80 feet; Thence
 278 S24°01'11"E a distance of 975.12 feet; Thence
 279 S57°46'34"E a distance of 530.20 feet; Thence
 280 S70°04'12"E a distance of 1,843.47 feet; Thence
 281 N63°01'21"E a distance of 1,214.99 feet; Thence
 282 S50°03'22"E a distance of 2,565.56 feet; Thence
 283 S13°56'09"W a distance of 1,953.90 feet; Thence
 284 S12°51'59"E a distance of 1,862.33 feet; Thence

285 S71°59'01"W a distance of 448.53 feet; Thence
 286 N45°00'57"W a distance of 266.60 feet; Thence
 287 S69°50'23"W a distance of 1,104.27 feet; Thence
 288 S28°10'55"E a distance of 1,272.60 feet; Thence
 289 S62°45'03"W a distance of 4,638.30 feet; Thence
 290 S82°12'01"W a distance of 711.48 feet; Thence
 291 S81°38'00"W a distance of 5,167.82 feet; Thence
 292 N77°54'41"W a distance of 707.32 feet; Thence
 293 N89°28'15"W a distance of 299.98 feet to a point lying
 294 50.00 feet East of the East right-of-way line for
 295 State Road No. 31; Thence along a line 50.00 feet East
 296 of, and parallel with, the East right-of-way line for
 297 State Road No. 31, the following courses and
 298 distances: S00°31'45"W a distance of 4,197.71 feet,
 299 S00°26'10"W a distance of 5,282.33 feet and
 300 S00°36'46"W a distance of 5,337.00 feet to the Point
 301 of Beginning.

302
 303 Containing 13,630.64 acres, more or less.

304
 305 Bearings hereinabove mentioned are based on the North
 306 line of Section 6, Township 43 South, Range 26 East to
 307 bear S89°41'45"E.

308
 309 LEE COUNTY PARCEL:

310

311 A parcel of land lying within Sections 1 through 7 and
 312 Section 9, Township 43 South, Range 26 East, Lee
 313 County, Florida, being more particularly described as
 314 follows:

315
 316 Commence at the Southwest corner of Section 31,
 317 Township 42 South, Range 26 East and run S89°41'45"E,
 318 along the South line of said Section 31, a distance of
 319 50.00 feet to a point on the East right-of-way line of
 320 State Road No. 31, said point also being the Point of
 321 Beginning of the parcel of land herein described;
 322 Thence continue S89°41'45"E a distance of 5,189.75
 323 feet to the Northeast corner of Section 6, Township 43
 324 South, Range 26 East; Thence S89°41'45"E a distance of
 325 5,306.08 feet to the Northeast corner of Section 5,
 326 Township 43 South, Range 26 East; Thence S89°37'16"E a
 327 distance of 5,289.11 feet to the Northeast corner of
 328 Section 4, Township 43 South, Range 26 East; Thence
 329 S89°35'44"E a distance of 5,294.60 feet to the
 330 Northeast corner of Section 3, Township 43 South,
 331 Range 26 East; Thence S89°35'44"E a distance of
 332 5,294.60 feet to the Northeast corner of Section 2,
 333 Township 43 South, Range 26 East; Thence S89°35'44"E,
 334 along the North line of Section 1, Township 43 South,
 335 Range 26 East, a distance of 155.76 feet; Thence
 336 S09°58'52"W a distance of 4,667.96 feet; Thence

337 S04°10'14"W a distance of 283.52 feet; Thence
 338 S03°53'19"E a distance of 515.32 feet to a point on
 339 the South line of Section 2, Township 43 South, Range
 340 26 East (said point being 558.41 feet West of the
 341 Southeast corner of said Section 2); Thence
 342 N88°38'22"W a distance of 2,084.07 feet to the South
 343 one-quarter corner of said Section 2; Thence
 344 N88°38'42"W a distance of 2,642.06 feet to the
 345 Southwest corner of said Section 2; Thence N89°51'49"W
 346 a distance of 5,300.09 feet to the Southwest corner of
 347 Section 3, Township 43 South, Range 26 East; Thence
 348 N89°51'54"W a distance of 2,650.09 feet to the South
 349 one-quarter corner of Section 4, Township 43 South,
 350 Range 26 East; Thence S00°23'25"W a distance of
 351 1,330.65 feet to the Southwest corner of the North
 352 one-half of the Northeast one-quarter of Section 9,
 353 Township 43 South, Range 26 East; Thence S06°02'41"E a
 354 distance of 1,338.36 feet to a point on the North line
 355 of the Southeast one-quarter of said Section 9 (said
 356 point being 150.00 feet East of the Northwest corner
 357 of the Southeast one-quarter of said Section 9);
 358 Thence S00°22'58"W, parallel with and 150.00 feet East
 359 of the West line of the Southeast one-quarter of said
 360 Section 9, a distance of 2,611.56 feet to a point on
 361 the North right-of-way line of County Road No. 78;
 362 Thence along said right-of-way line the following

363 courses and distances, N89°54'54"W a distance of
 364 150.26 feet and N89°54'44"W a distance of 2,648.95
 365 feet to a point on the West line of said Section 9;
 366 Thence N00°22'31"E a distance of 2,612.02 feet to the
 367 West one-quarter corner of said Section 9; Thence
 368 N00°21'56"E a distance of 2,663.13 feet to the
 369 Southeast corner of Section 5, Township 43 South,
 370 Range 26 East; Thence N89°52'00"W a distance of
 371 2,666.70 feet to the South one-quarter corner of said
 372 Section 5; Thence N89°50'47"W a distance of 2,667.42
 373 feet to the Southwest corner of said Section 5; Thence
 374 S00°23'16"W, along the East line of Section 7,
 375 Township 43 South, Range 26 East, a distance of
 376 5,294.00 feet to a point on the North right-of-way
 377 line of County Road No. 78; Thence Westerly along the
 378 curved right-of-way line, (said curve being curved
 379 concave to the North, having a delta angle of
 380 00°53'52" and a radius of 11,339.17 feet, with a chord
 381 bearing of N89°19'12"W and a chord length of 177.69
 382 feet) a distance of 177.69 feet to the end of the
 383 curve; Thence N88°52'16"W, along said North right-of-
 384 way line, a distance of 4,406.31 feet to the beginning
 385 of a curve to the right; Thence along the arc of the
 386 curved right-of-way line, (said curve being curved
 387 concave to the Northeast, having a delta angle of
 388 89°12'05" and a radius of 522.94 feet, with a chord

389 bearing of N44°16'14"W and a chord length of 734.37
 390 feet) a distance of 814.14 feet to a point on the East
 391 right-of-way line of State Road No. 31; Thence along
 392 the East right-of-way line for State Road No. 31, the
 393 following courses and distances, N00°19'49"E a
 394 distance of 4,776.07 feet, N00°18'54"E a distance of
 395 5,313.41 feet and N00°36'46"E a distance of 0.14 feet
 396 to the Point of Beginning.
 397 Containing 4,157.2 acres, more or less.
 398 Bearings hereinabove mentioned are based on the North
 399 line of Section 6, Township 43 South, Range 26 East to
 400 bear S89°41'45"E.
 401 CONTAINING A TOTAL AREA OF 17,787.84 ACRES, PLUS OR
 402 MINUS.

403
 404 Section 4. Paragraphs (a) and (d) of subsection (3) and
 405 subsection (8) of section 5 of chapter 2007-306, Laws of
 406 Florida, are amended to read:

407 Section 5. Governing board; members and meetings;
 408 organization; powers; duties; terms of office; related election
 409 requirements.—

410 (3)(a)1. The board may not exercise the ad valorem taxing
 411 power or general obligation bond power authorized by this act
 412 until such time as all members of the board, except for
 413 nonvoting members, are qualified electors who are elected by
 414 qualified electors of the district.

415 2.a. Regardless of whether the district has proposed to
416 levy ad valorem taxes or issue general obligation bonds, board
417 members initially elected by landowners shall be elected by
418 qualified electors of the district as the district becomes
419 populated with qualified electors. The transition shall occur
420 such that the composition of the board, after the first general
421 election following a trigger of the qualified elector population
422 thresholds set forth below, shall be as follows:

423 (I) Once 4,600 qualified electors reside within the
424 district, one voting board member shall be a person who was
425 elected by the qualified electors, and four voting board members
426 shall be persons who were elected by the landowners.

427 (II) Once 8,900 qualified electors reside within the
428 district, two voting board members shall be persons who were
429 elected by the qualified electors, and three voting board
430 members shall be persons elected by the landowners.

431 (III) Once 22,000 qualified electors reside within the
432 district, three voting board members shall be persons who were
433 elected by the qualified electors and two voting board members
434 shall be persons who were elected by the landowners.

435 (IV) Once 24,000 qualified electors reside within the
436 district, four voting board members shall be persons who were
437 elected by the qualified electors and one voting board member
438 shall be a person who was elected by the landowners.

439 (V) Once 25,000 qualified electors reside within the
 440 district, all five voting board members shall be persons who
 441 were elected by the qualified electors.

442

443 Nothing in this sub-subparagraph is intended to require an
 444 election prior to the expiration of an existing board member's
 445 term.

446 b. On or before June 1 of each year, the board shall
 447 determine the number of qualified electors in the district as of
 448 the immediately preceding April 15. The board shall use and rely
 449 upon the official records maintained by the supervisor of
 450 elections and property appraiser or tax collector in and for
 451 each ~~Charlotte~~ county in making this determination. Such
 452 determination shall be made at a properly noticed meeting of the
 453 board and shall become a part of the official minutes of the
 454 district.

455 c. All governing board members elected by qualified
 456 electors shall be elected at large at an election occurring as
 457 provided in subsection (2) and this subsection.

458 d. Once the district qualifies to have any of its board
 459 members elected by the qualified electors of the district, the
 460 initial and all subsequent elections by the qualified electors
 461 of the district shall be held at the general election in
 462 November. The board shall adopt a resolution if necessary to
 463 implement this requirement. The transition process described

464 herein is intended to be in lieu of the process set forth in
 465 section 189.041 ~~189.4051~~, Florida Statutes.

466 (d) The supervisors ~~supervisor~~ of elections shall appoint
 467 the inspectors and clerks of elections, prepare and furnish the
 468 ballots, designate polling places, and canvass the returns of
 469 the election of board members by qualified electors. The county
 470 canvassing boards ~~board~~ shall declare and certify the results of
 471 the election.

472 (8) The board shall keep a permanent record book entitled
 473 "Record of Proceedings of Babcock Ranch Community Independent
 474 Special District," in which shall be recorded minutes of all
 475 meetings, resolutions, proceedings, certificates, bonds given by
 476 all employees, and any and all corporate acts. The record book
 477 and all other district records shall at reasonable times be
 478 opened to inspection in the same manner as state, county, and
 479 municipal records pursuant to chapter 119, Florida Statutes. The
 480 record book shall be kept at the office or other regular place
 481 of business maintained by the board in a designated location in
 482 either Charlotte County or Lee County.

483 Section 5. Paragraphs (c) and (d) of subsection (4),
 484 paragraphs (f) and (q) of subsection (6), paragraph (s) of
 485 subsection (7), paragraphs (i) and (n) of subsection (10),
 486 paragraph (c) of subsection (12), paragraph (a) of subsection
 487 (13), paragraph (a) of subsection (19), paragraph (b) of
 488 subsection (20), and subsection (26) of section 6 of chapter
 489 2007-306, Laws of Florida, are amended to read:

490 Section 6. Governing board; general duties.-

491 (4) BUDGET; REPORTS AND REVIEWS.-

492 (c) At least 60 days prior to adoption, the board of the
 493 district shall submit to the boards of county commissioners of
 494 Charlotte and Lee Counties ~~County Board of County Commissioners,~~
 495 for purposes of disclosure and information only, the proposed
 496 annual budget for the ensuing fiscal year, and each ~~the~~ board of
 497 county commissioners may submit written comments to the board of
 498 the district solely for the assistance and information of the
 499 board of the district in adopting its annual district budget.

500 (d) The board of the district shall submit annually to the
 501 boards of county commissioners of Charlotte and Lee Counties
 502 ~~County Board of County Commissioners~~ its district public
 503 facilities report under section 189.08(2) ~~189.415(2)~~, Florida
 504 Statutes, which report each ~~the~~ board of county commissioners
 505 may shall use and rely on in the preparation or revision of its
 506 comprehensive plan, specifically under section 189.08(6)
 507 ~~189.415(6)~~, Florida Statutes.

508 (6) GENERAL POWERS.-The district shall have, and the board
 509 may exercise, the following general powers:

510 (f) To maintain an office at such place or places as the
 511 board designates in either Charlotte County or Lee County, and
 512 within the district when facilities are available.

513 (g) To exercise such special powers and other express
 514 powers as may be authorized and granted by this act in the
 515 charter of the district, including powers as provided in any

516 interlocal agreement entered into pursuant to chapter 163,
 517 Florida Statutes, or that shall be required or permitted to be
 518 undertaken by the district pursuant to any development order or
 519 development of regional impact, or any other agreement with
 520 Charlotte County, Lee County, or other governmental entities,
 521 including, without limitation, any school district, sheriff,
 522 fire district, drainage district, and health care district for
 523 proportionate, fair-share, or pipelining capital construction
 524 funding for any certain capital facilities or systems required
 525 from the development pursuant to any applicable development
 526 order or agreement.

527

528 The provisions of this subsection shall be construed liberally
 529 in order to carry out effectively the specialized purpose of
 530 this act.

531 (7) SPECIAL POWERS.—The district shall have, and the board
 532 may exercise, the following special powers to implement its
 533 lawful and special purpose and to provide, pursuant to that
 534 purpose, systems, facilities, services, improvements, projects,
 535 works, and infrastructure, each of which constitutes a lawful
 536 public purpose when exercised pursuant to this charter, subject
 537 to, and not inconsistent with, the regulatory jurisdiction and
 538 permitting authority of all other applicable governmental
 539 bodies, agencies, and any special districts having authority
 540 with respect to any area included therein, and to plan,
 541 establish, acquire, construct or reconstruct, enlarge or extend,

542 equip, operate, finance, fund, and maintain improvements,
 543 systems, facilities, services, works, projects, and
 544 infrastructure, including, without limitation, any obligations
 545 pursuant to a development order or agreement. Any or all of the
 546 following special powers are granted by this act in order to
 547 implement the special purpose of the district:

548 (s) To provide for affordable housing and affordable
 549 housing assistance in accordance with section 189.081(6)
 550 ~~189.4155(6)~~, Florida Statutes, and other provisions of general
 551 law.

552 (10) BONDS.—

553 (i) General obligation bonds.—

554 1. Subject to the limitations of this charter, the
 555 district shall have the power from time to time to issue general
 556 obligation bonds to finance or refinance capital projects or to
 557 refund outstanding bonds in an aggregate principal amount of
 558 bonds outstanding at any one time not in excess of 35 percent of
 559 the assessed value of the taxable property within the district
 560 as shown on the pertinent tax records at the time of the
 561 authorization of the general obligation bonds for which the full
 562 faith and credit of the district is pledged. Except for
 563 refunding bonds, no general obligation bonds shall be issued
 564 unless the bonds are issued to finance or refinance a capital
 565 project and the issuance has been approved at an election held
 566 in accordance with the requirements for such election as
 567 prescribed by the State Constitution. Such elections shall be

568 called to be held in the district by the boards ~~Board~~ of county
 569 commissioners of Charlotte and Lee Counties ~~County~~ upon the
 570 request of the board of the district. The expenses of calling
 571 and holding an election shall be at the expense of the district,
 572 and the district shall reimburse each ~~the~~ county for any
 573 expenses incurred in calling or holding such election.

574 2. The district may pledge its full faith and credit for
 575 the payment of the principal and interest on such general
 576 obligation bonds and for any reserve funds provided therefor and
 577 may unconditionally and irrevocably pledge itself to levy ad
 578 valorem taxes on all taxable property in the district, to the
 579 extent necessary for the payment thereof, without limitation as
 580 to rate or amount.

581 3. If the board determines to issue general obligation
 582 bonds for more than one capital project, the approval of the
 583 issuance of the bonds for each and all such projects may be
 584 submitted to the electors on one and the same ballot. The
 585 failure of the electors to approve the issuance of bonds for any
 586 one or more capital projects shall not defeat the approval of
 587 bonds for any capital project that has been approved by the
 588 electors.

589 4. In arriving at the amount of general obligation bonds
 590 permitted to be outstanding at any one time pursuant to
 591 subparagraph 1., there shall not be included any general
 592 obligation bonds that are additionally secured by the pledge of:

593 a. Any assessments levied in an amount sufficient to pay
 594 the principal and interest on the general obligation bonds so
 595 additionally secured, which assessments have been equalized and
 596 confirmed by resolution of the board pursuant to this act or
 597 section 170.08, Florida Statutes.

598 b. Water revenues, sewer revenues, or water and sewer
 599 revenues of the district to be derived from user fees in an
 600 amount sufficient to pay the principal and interest on the
 601 general obligation bonds so additionally secured.

602 c. Any combination of assessments and revenues described
 603 in sub-subparagraphs a. and b.

604 (n) Application of section 189.051 ~~189.4085~~, Florida
 605 Statutes.—Bonds issued by the district shall meet the criteria
 606 set forth in section 189.051 ~~189.4085~~, Florida Statutes.

607 (12) AD VALOREM TAXES; ASSESSMENTS, BENEFIT SPECIAL
 608 ASSESSMENTS, MAINTENANCE SPECIAL ASSESSMENTS, AND SPECIAL
 609 ASSESSMENTS; MAINTENANCE TAXES.—

610 (c) Non-ad valorem maintenance taxes.—If and when
 611 authorized by general law, to maintain and preserve the physical
 612 facilities and services constituting the works, improvements, or
 613 infrastructure provided by the district pursuant to this act; to
 614 repair and restore any one or more of them, when needed; and to
 615 defray the current expenses of the district, including any sum
 616 that may be required to pay state and county ad valorem taxes on
 617 any lands that may have been purchased and that are held by the
 618 district under the provisions of this act, the governing board

619 may, upon the completion of said systems, facilities, services,
 620 works, improvements, or infrastructure, in whole or in part, as
 621 may be certified to the board by the engineer of the board, levy
 622 annually a non-ad valorem and nonmillage tax upon each tract or
 623 parcel of land within the district, to be known as a
 624 "maintenance tax." This non-ad valorem maintenance tax shall be
 625 apportioned upon the basis of the net assessments of benefits
 626 assessed as accruing from the original construction and shall be
 627 evidenced to and certified by the governing board of the
 628 district not later than June 1 of each year to the property
 629 appraisers ~~appraiser~~ of Charlotte and Lee Counties ~~County~~ and
 630 shall be extended by the property appraiser on the tax roll of
 631 the property appraiser, as certified by the property appraiser
 632 to the tax collector, and collected by the tax collector on the
 633 merged collection roll of the tax collector in the same manner
 634 and at the same time as county ad valorem taxes, and the
 635 proceeds therefrom shall be paid to the district. This non-ad
 636 valorem maintenance tax shall be a lien until paid on the
 637 property against which assessed and enforceable in like manner
 638 and of the same dignity as county ad valorem taxes.

639 (13) SPECIAL ASSESSMENTS.—

640 (a) As an alternative method to the levy and imposition of
 641 special assessments pursuant to chapter 170, Florida Statutes,
 642 pursuant to the authority of section 197.3631, Florida Statutes,
 643 or pursuant to other provisions of general law, now or hereafter
 644 enacted, which provide a supplemental means or authority to

645 impose, levy, and collect special assessments as otherwise
 646 authorized under this act, the board may levy and impose special
 647 assessments to finance the exercise of any of its powers
 648 permitted under this act using the following uniform procedures:

649 1. At a noticed meeting, the governing board of the
 650 district may consider and review an engineer's report on the
 651 costs of the systems, facilities, and services to be provided, a
 652 preliminary assessment methodology, and a preliminary roll based
 653 on acreage or platted lands, depending upon whether platting has
 654 occurred.

655 a. The assessment methodology shall address and discuss
 656 and the board shall consider whether the systems, facilities,
 657 and services being contemplated will result in special benefits
 658 peculiar to the property, different in kind and degree than
 659 general benefits, as a logical connection between the systems,
 660 facilities, and services themselves and the property, and
 661 whether the duty to pay the assessments by the property owners
 662 is apportioned in a manner that is fair and equitable and not in
 663 excess of the special benefit received. It shall be fair and
 664 equitable to designate a fixed proportion of the annual debt
 665 service, together with interest thereon, on the aggregate
 666 principal amount of bonds issued to finance such systems,
 667 facilities, and services that give rise to unique, special, and
 668 peculiar benefits to property of the same or similar
 669 characteristics under the assessment methodology so long as such
 670 fixed proportion does not exceed the unique, special, and

671 peculiar benefits enjoyed by such property from such systems,
 672 facilities, and services.

673 b. The engineer's cost report shall identify the nature of
 674 the proposed systems, facilities, and services, their location,
 675 a cost breakdown plus a total estimated cost, including cost of
 676 construction or reconstruction, labor, and materials, lands,
 677 property, rights, easements, franchises, or systems, facilities,
 678 and services to be acquired, cost of plans and specifications,
 679 surveys of estimates of costs and revenues, costs of
 680 engineering, legal, and other professional consultation
 681 services, and other expenses or costs necessary or incident to
 682 determining the feasibility or practicability of such
 683 construction, reconstruction, or acquisition, administrative
 684 expenses, relationship to the authority and power of the
 685 district in its charter, and such other expenses or costs as may
 686 be necessary or incident to the financing to be authorized by
 687 the governing board.

688 c. The preliminary assessment roll to be prepared will be
 689 in accordance with the method of assessment provided for in the
 690 assessment methodology and as may be adopted by the governing
 691 board; the assessment roll shall be completed as promptly as
 692 possible and shall show the acreage, lots, lands, or plats
 693 assessed and the amount of the fairly and reasonably apportioned
 694 assessment based on special and peculiar benefit to the
 695 property, lot, parcel, or acreage of land; and, if the
 696 assessment against each such lot, parcel, acreage, or portion of

697 land is to be paid in installments, the number of annual
 698 installments in which the assessment is divided shall be entered
 699 into and shown upon the assessment roll.

700 2. The governing board of the district may determine and
 701 declare by an initial assessment resolution to levy and assess
 702 the assessments with respect to assessable improvements stating
 703 the nature of the systems, facilities, and services,
 704 improvements, projects, or infrastructure constituting such
 705 assessable improvements, the information in the engineer's cost
 706 report, the information in the assessment methodology as
 707 determined by the board at the noticed meeting and referencing
 708 and incorporating as part of the resolution the engineer's cost
 709 report, the preliminary assessment methodology, and the
 710 preliminary assessment roll as referenced exhibits to the
 711 resolution by reference. If the board determines to declare and
 712 levy the special assessments by the initial assessment
 713 resolution, the board shall also adopt and declare a notice
 714 resolution that shall provide and cause the initial assessment
 715 resolution to be published once a week for a period of 2 weeks
 716 in newspapers ~~a newspaper~~ of general circulation published in
 717 Charlotte and Lee Counties ~~County~~ and said board shall by the
 718 same resolution fix a time and place at which the owner or
 719 owners of the property to be assessed or any other persons
 720 interested therein may appear before said board and be heard as
 721 to the propriety and advisability of making such improvements,
 722 as to the costs thereof, as to the manner of payment therefor,

723 and as to the amount thereof to be assessed against each
 724 property so improved. Thirty days' notice in writing of such
 725 time and place shall be given to such property owners. The
 726 notice shall include the amount of the assessment and shall be
 727 served by mailing a copy to each assessed property owner at his
 728 or her last known address, the names and addresses of such
 729 property owners to be obtained from the record of the property
 730 appraiser of the county political subdivision in which the land
 731 is located or from such other sources as the district manager or
 732 engineer deems reliable, and proof of such mailing shall be made
 733 by the affidavit of the manager of the district or by the
 734 engineer, said proof to be filed with the district manager,
 735 provided that failure to mail said notice or notices shall not
 736 invalidate any of the proceedings hereunder. It is provided
 737 further that the last publication shall be at least 1 week prior
 738 to the date of the hearing on the final assessment resolution.
 739 Said notice shall describe the general areas to be improved and
 740 advise all persons interested that the description of each
 741 property to be assessed and the amount to be assessed to each
 742 piece, parcel, lot, or acre of property may be ascertained at
 743 the office of the manager of the district. Such service by
 744 publication shall be verified by the affidavit of the publisher
 745 and filed with the manager of the district. Moreover, the
 746 initial assessment resolution with its attached, referenced, and
 747 incorporated engineer's cost report, preliminary assessment
 748 methodology, and preliminary assessment roll, along with the

749 notice resolution, shall be available for public inspection at
 750 the office of the manager and the office of the engineer or any
 751 other office designated by the governing board in the notice
 752 resolution. Notwithstanding the foregoing, the landowners of all
 753 of the property that is proposed to be assessed may give the
 754 district written notice of waiver of any notice and publication
 755 provided for in this subparagraph and such notice and
 756 publication shall not be required, provided, however, that any
 757 meeting of the governing board to consider such resolution shall
 758 be a publicly noticed meeting.

759 3. At the time and place named in the noticed resolution
 760 as provided for in subparagraph 2., the governing board of the
 761 district shall meet and hear testimony from affected property
 762 owners as to the propriety and advisability of making the
 763 systems, facilities, services, projects, works, improvements, or
 764 infrastructure and funding them with assessments referenced in
 765 the initial assessment resolution on the property. Following the
 766 testimony and questions from the members of the board or any
 767 professional advisors to the district of the preparers of the
 768 engineer's cost report, the assessment methodology, and the
 769 assessment roll, the governing board shall make a final decision
 770 on whether to levy and assess the particular assessments.
 771 Thereafter, the governing board shall meet as an equalizing
 772 board to hear and to consider any and all complaints as to the
 773 particular assessments and shall adjust and equalize the
 774 assessments on the basis of justice and right.

775 4. When so equalized and approved by resolution or
 776 ordinance by the governing board, to be called the final
 777 assessment resolution, a final assessment roll shall be filed
 778 with the clerk of the board and such assessment shall stand
 779 confirmed and remain legal, valid, and binding first liens on
 780 the property against which such assessments are made until paid,
 781 equal in dignity to the first liens of ad valorem taxation of
 782 county and municipal governments and school boards. However,
 783 upon completion of the systems, facilities, service, project,
 784 improvement, works, or infrastructure, the district shall credit
 785 to each of the assessments the difference in the assessment as
 786 originally made, approved, levied, assessed, and confirmed and
 787 the proportionate part of the actual cost of the improvement to
 788 be paid by the particular special assessments as finally
 789 determined upon the completion of the improvement; but in no
 790 event shall the final assessment exceed the amount of the
 791 special and peculiar benefits as apportioned fairly and
 792 reasonably to the property from the system, facility, or service
 793 being provided as originally assessed. Promptly after such
 794 confirmation, the assessment shall be recorded by the clerk of
 795 the district in the minutes of the proceedings of the district,
 796 and the record of the lien in this set of minutes shall
 797 constitute prima facie evidence of its validity. The governing
 798 board, in its sole discretion, may, by resolution, grant a
 799 discount equal to all or a part of the payee's proportionate
 800 share of the cost of the project consisting of bond financing

801 cost, such as capitalized interest, funded reserves, and bond
 802 discounts included in the estimated cost of the project, upon
 803 payment in full of any assessments during such period prior to
 804 the time such financing costs are incurred as may be specified
 805 by the governing board in such resolution.

806 5. District assessments may be made payable in
 807 installments over no more than 30 years after ~~from~~ the date of
 808 the payment of the first installment thereof and may bear
 809 interest at fixed or variable rates.

810 (19) COMPETITIVE PROCUREMENT; BIDS; NEGOTIATIONS; RELATED
 811 PROVISIONS REQUIRED.—

812 (a) No contract shall be let by the board for any goods,
 813 supplies, or materials to be purchased when the amount thereof
 814 to be paid by the district shall exceed the amount provided in
 815 section 287.017, Florida Statutes, for category four, unless
 816 notice of bids shall be advertised once in newspapers a
 817 ~~newspaper~~ in general circulation in Charlotte and Lee Counties
 818 ~~County~~. Any board seeking to construct or improve a public
 819 building, structure, or other public works shall comply with the
 820 bidding procedures of section 255.20, Florida Statutes, and
 821 other applicable general law. In each case, the bid of the
 822 lowest responsive and responsible bidder shall be accepted
 823 unless all bids are rejected because the bids are too high or
 824 the board determines it is in the best interests of the district
 825 to reject all bids. The board may require the bidders to furnish
 826 bond with a responsible surety to be approved by the board.

827 Nothing in this section shall prevent the board from undertaking
 828 and performing the construction, operation, and maintenance of
 829 any project or facility authorized by this act by the employment
 830 of labor, material, and machinery.

831 (20) FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION
 832 AND MODIFICATIONS; MINIMUM REVENUE REQUIREMENTS.—

833 (b) No such rates, fees, rentals, or other charges for any
 834 of the facilities or services of the district shall be fixed
 835 until after a public hearing at which all the users of the
 836 proposed facility or services or owners, tenants, or occupants
 837 served or to be served thereby and all other interested persons
 838 shall have an opportunity to be heard concerning the proposed
 839 rates, fees, rentals, or other charges. Rates, fees, rentals,
 840 and other charges shall be adopted under the administrative
 841 rulemaking authority of the district, but shall not apply to
 842 district leases. Notice of such public hearing setting forth the
 843 proposed schedule or schedules of rates, fees, rentals, and
 844 other charges shall have been published in newspapers a
 845 ~~newspaper~~ of general circulation in Charlotte and Lee Counties
 846 ~~County~~ at least once and at least 10 days prior to such public
 847 hearing. The rulemaking hearing may be adjourned from time to
 848 time. After such hearing, such schedule or schedules, either as
 849 initially proposed or as modified or amended, may be finally
 850 adopted. A copy of the schedule or schedules of such rates,
 851 fees, rentals, or charges as finally adopted shall be kept on
 852 file in an office designated by the board and shall be open at

853 all reasonable times to public inspection. The rates, fees,
 854 rentals, or charges so fixed for any class of users or property
 855 served shall be extended to cover any additional users or
 856 properties thereafter served that shall fall in the same class,
 857 without the necessity of any notice or hearing.

858 (26) TERMINATION, CONTRACTION, OR EXPANSION OF DISTRICT.-

859 (a) The board may ask the Legislature through its local
 860 legislative delegations in and for Charlotte and Lee Counties
 861 ~~County~~ to amend this act to contract, to expand or to contract,
 862 and to expand the boundaries of the district.

863 (b) The district shall remain in existence until:

864 1. The district is terminated and dissolved pursuant to
 865 amendment to this act by the Legislature.

866 2. The district has become inactive pursuant to section
 867 189.062 ~~189.4044~~, Florida Statutes.

868 Section 6. In the election provided for in section 7, each
 869 landowner present in person or by proxy is entitled to cast one
 870 vote for each assessable acre or fraction of an acre of land
 871 owned by him or her and located within the district.

872 Section 7. This section and section 6 shall take effect
 873 upon this act becoming a law, and the remaining sections shall
 874 take effect upon approval by a majority vote of the owners of
 875 land within the district, including land in Charlotte and Lee
 876 Counties, who are not exempt from ad valorem taxes or non-ad
 877 valorem assessments and who are present in person or by proxy at
 878 a landowners' meeting to be held within 90 days after the


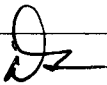
HB 1039

2016

879 | effective date of this act. Such landowners' meeting shall be
880 | noticed in the same manner as provided in section 5 of chapter
881 | 2007-306, Laws of Florida. However, the provisions of this act
882 | authorizing the levy of ad valorem taxation and the issuance of
883 | general obligation bonds shall take effect only upon express
884 | approval by a majority vote of those qualified electors of the
885 | Babcock Ranch Community Independent Special District voting in a
886 | referendum election held at such time as all members of the
887 | district's governing board are qualified electors of the
888 | district who are elected by qualified electors of the district
889 | as provided in this act.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1071 South Broward Hospital District, Broward County
SPONSOR(S): Local Government Affairs Subcommittee, Stark
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	11 Y, 0 N, As CS	Walker	Miller
2) Finance & Tax Committee		Pewitt 	Langston 
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

The South Broward Hospital District (the District) is a special district created by law, operating under Chapter 2004-397, Laws of Florida. The current law limits investments made under an investment plan to an enumerated list of investment vehicles. In contrast, general law under s. 218.415, F.S., provides a broader array of investment vehicles to counties, municipalities, school districts, and special districts.

The bill removes the current enumerated list in Chapter 2004-397, Laws of Florida, enabling the District to utilize the full range of investment tools available to other units of local government under general law and to approve other investment vehicles not specifically authorized by law through a resolution of the District Board of Commissioners.

The fiscal impact is indeterminate because the amount of accrued interest will vary based upon the amount of principal invested, the interest rate being applied, and protocols for crediting interest.

This bill is effective upon the bill becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,¹ special act,² local ordinance,³ or by rule of the Governor and Cabinet.⁴ Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁵ A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.

The South Broward Hospital District (District), was created in 1947 by special act⁶ in order to provide for and maintain any and all types of health facilities, equipment, and services within Broward County.⁷ The District is managed by a seven member Board of Commissioners (Board).⁸ The Board has the power to levy an ad valorem tax of up to 2.5 mils as well as any additional mils necessary to pay interest and principle on bonds not to exceed \$50 million dollars used to establish, construct, acquire, add to, operate, or maintain District facilities.⁹

The District has the ability to invest any funds in its possession pursuant to an investment policy approved by the Board¹⁰ and limited to an enumerated list of approved instruments, specifically:

- The Local Government Surplus Funds Trust Fund under s. 218.405, F.S.
- Commercial bankers' acceptances
- Prime quality commercial paper
- Interest bearing bonds, debentures and other forms of debt with a fixed maturity of a domestic corporation
- Direct obligations of the United States Government and various federal financial institutions
- Options for the purpose of hedging to protect underlying asset values.¹¹

Contrastingly, units of general local government have investment powers under a separate statutory scheme prescribed by general law.¹² The range of investment tools available with an investment policy in place under this section is broader than the options currently available to the District, including:

- The Local Government Surplus Funds Trust Fund under s. 218.405 F.S. or any intergovernmental investment pool authorized by the Florida Interlocal Cooperation Act of 1969, as provided in s. 163.01, F.S.;
- Security Exchange Commission registered money market funds with the highest credit rating
- Interest-bearing time deposits or savings accounts in qualified public depositories authorized under s. 280.02, F.S.;
- Direct obligations of the United States Treasury;

¹ Section 189.031(3), F.S.

² Id.

³ Section 189.02(1), F.S.

⁴ Section 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

⁵ 2015 – 2016 Local Gov't Formation Manual, p. 67, at

<http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2836> (accessed 9/28/2015).

⁶ Ch. 24415, Laws of Fla.

⁷ Ch. 84-400, Laws of Fla.

⁸ Ch. 2004-397, s. 3, Laws of Fla.

⁹ Ch. 2004-397, s. 27 & 11, Laws of Fla.

¹⁰ Ch. 2004-397, s. 37 of s. 3, Laws of Fla.

¹¹ Ch. 2004-397, s. 37(1)-(6) of s. 3, Laws of Fla.

¹² Section 218.415, F.S.

- Federal agencies and instrumentalities;
- Rated or unrated bonds, notes, and certain instruments guaranteed by the government of Israel;
- Securities of certain management-type investment companies and trusts which invest only in United States government entities;
- Other investments authorized by law or resolution for a special district.¹³

EFFECT OF THE BILL

The bill amends Chapter 2004-397, Laws of Florida, to authorize the District to invest surplus public funds through the more expansive list of investment tools available to counties, municipalities, school districts and other special districts under general law. The bill also allows the District to authorize additional investment vehicles by resolution of the Board under the statutory authorization.¹⁴

The bill revises existing language in Chapter 2004-397, Laws of Florida, to clarify that the chapter shall be interpreted liberally to effectuate its purposes and that a ruling invalidating any provision or application of the chapter does not render invalid any other provision or application.

B. SECTION DIRECTORY:

Section 1. Amends Chapter 2004-397, s. 37 of s. 3, Laws of Florida, to expand the investment options available to the District by deleting the present list of available options and relying on the provisions available to other units of local government under general law.

Section 2. Amends Chapter 2004-397, s. 4, Laws of Florida, to clarify that the chapter shall be interpreted liberally to effectuate its purposes.

Section 3. Amends Chapter 2004-397, s. 5, Laws of Florida to clarify that a ruling invalidating any provision or application of the chapter does not render invalid any other provision or application.

Section 4. Provides the bill is effective upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? Oct. 4, 2015

WHERE? Broward, County

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

¹³ Section 218.415(16)(a)-(i), F.S.

¹⁴ Section 218.415(16)(i), F.S.

B. RULE-MAKING AUTHORITY:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 19, 2016, the Local Government Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment made two technical changes to the bill. Specifically, the amendment:

- Revises the existing language in Chapter 2004-397, s. 4, Laws of Florida, clarifying that the chapter shall be interpreted liberally to effectuate its purposes.
- Revises the existing language in Chapter 2004-397, s. 5, Laws of Florida, clarifying that a ruling invalidating any provision or application of the chapter does not render invalid any other provision or application.

This analysis is drawn to the bill as amended by the Local Government Affairs Subcommittee.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

A bill to be entitled
 An act relating to the South Broward Hospital
 District, Broward County; amending chapter 2004-397,
 Laws of Florida; revising the authority of the
 district's board of commissioners to invest funds;
 authorizing investments listed in an investment policy
 adopted by the board pursuant to requirements
 applicable to various units of local government;
 deleting a list of authorized investments; revising
 construction and severability; providing an effective
 date.

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

Section 1. Section 37 of section 3 of chapter 2004-397,
 Laws of Florida, is amended to read:

Section 37. In addition to any investment authorized by
 general law, including s. 218.415, Florida Statutes, and to the
 extent created by the State Constitution, the Board of
 Commissioners of the South Broward Hospital District shall be
 and is hereby authorized and empowered to invest any funds in
 its control or possession in accordance with an investment
 policy approved by the board which mandates prudent investment
 practices which shall include, among other items, the investment
 objectives and permitted securities of the policy. Such
 investment policy shall be designed to maximize the financial

27 | return to the fund consistent with the risks incumbent in each
 28 | investment and shall be designed to preserve the appropriate
 29 | diversification of the portfolio. Accordingly, ~~the following~~
 30 | ~~instruments are authorized for investment:~~

31 | ~~(1) In the trust fund known as Local Government Surplus~~
 32 | ~~Funds Trust Fund as created and established by section 218.405,~~
 33 | ~~Florida Statutes.~~

34 | ~~(2) Bankers' acceptances which are drawn upon and accepted~~
 35 | ~~by a commercial bank which is a member bank of the Federal~~
 36 | ~~Reserve System maintaining capital accounts in excess of 7.5~~
 37 | ~~percent of total assets, and which member bank of its holding~~
 38 | ~~company carries a credit rating in one of the two highest~~
 39 | ~~alphabetical categories from at least two nationally recognized~~
 40 | ~~debt rating agencies.~~

41 | ~~(3) Commercial paper of prime quality rated by at least~~
 42 | ~~two nationally recognized debt rating agencies in the highest~~
 43 | ~~letter and numerical rating of each agency. If not so rated,~~
 44 | ~~such prime quality commercial paper may be purchased if secured~~
 45 | ~~by a letter of credit provided by a commercial bank, which bank~~
 46 | ~~or its holding company carries a credit rating in one of the two~~
 47 | ~~highest alphabetical categories from at least two nationally~~
 48 | ~~recognized debt rating agencies.~~

49 | ~~(4) Interest-bearing bonds, debentures, and other such~~
 50 | ~~evidence of indebtedness with a fixed maturity of any domestic~~
 51 | ~~corporation within the United States which is listed on any one~~
 52 | ~~or more of the recognized national stock exchanges in the United~~

53 ~~States which is listed on any one or more of the recognized~~
54 ~~national stock exchanges in the United States and conforms with~~
55 ~~the periodic reporting requirements under the Securities~~
56 ~~Exchange Act of 1934. Such obligations shall either carry~~
57 ~~ratings in one of the two highest classifications of at least~~
58 ~~two nationally recognized debt rating agencies or be secured by~~
59 ~~a letter of credit provided by a commercial bank, which bank or~~
60 ~~its holding company carries a credit rating in one of the two~~
61 ~~highest alphabetical categories from at least two nationally~~
62 ~~recognized debt rating agencies.~~

63 ~~(5) Negotiable direct obligations of, or obligations the~~
64 ~~principal and interest of which are unconditionally guaranteed~~
65 ~~by, the United States Government and obligations of the Federal~~
66 ~~Farm Credit Banks, Federal Home Loan Mortgage Corporations, or~~
67 ~~Federal Home Loan Bank or its district banks, including Federal~~
68 ~~Home Loan Mortgage Corporation participation certificates or~~
69 ~~obligations guaranteed by the Government National Mortgage~~
70 ~~Association, which are purchased and sold under repurchase~~
71 ~~agreements and reverse repurchase agreements. Repurchase~~
72 ~~agreements and reverse repurchase agreements may be entered into~~
73 ~~only with a member bank of the Federal Reserve System or primary~~
74 ~~dealer in United States Government Securities. Further, any such~~
75 ~~repurchase agreements and reverse repurchase agreements shall be~~
76 ~~fully collateralized by the type of securities which are named~~
77 ~~in this subsection. Securities purchased or repurchased by the~~

78 ~~South Broward Hospital District shall be delivered to the South~~
 79 ~~Broward Hospital District or its agent versus payment.~~

80 ~~(6) Purchase of options so as to engage in bona fide~~
 81 ~~hedging activities for the purpose of protecting the asset value~~
 82 ~~of the underlying portfolio. However, the underlying security~~
 83 ~~(that is, the security that must be delivered if a put option or~~
 84 ~~call option contract is exercised) shall be negotiable direct~~
 85 ~~obligations of, or obligations the principal and interest of~~
 86 ~~which are unconditionally guaranteed by, the United States~~
 87 ~~Government and obligations of the Federal Farm Credit Banks,~~
 88 ~~Federal Home Loan Mortgage Corporations, or Federal Loan Bank or~~
 89 ~~its district banks, including Federal Home Loan Mortgage~~
 90 ~~Corporation participation certificates, or obligations~~
 91 ~~guaranteed by the Government National Mortgage Association.~~
 92 ~~Further, the options of said underlying securities shall be~~
 93 ~~traded on a securities exchange or board of trade regulated by~~
 94 ~~the Securities Exchange Commission or the Commodity Futures~~
 95 ~~Trading Commission.~~

96 Section 2. Section 4 of chapter 2004-397, Laws of Florida,
 97 is amended to read:

98 Section 4. This act shall be liberally construed to
 99 effectuate the purposes set forth herein. ~~It is intended that~~
 100 ~~the provisions of this action shall be liberally construed for~~
 101 ~~accomplishment of the work authorized and provided for or~~
 102 ~~intended to be provided for by this act, and where strict~~
 103 ~~construction would permit or assist in the accomplishment of any~~

104 ~~apart of the work authorized by this act, the liberal~~
 105 ~~construction shall be chosen.~~



106 Section 3. Section 5 of chapter 2004-397, Laws of Florida,
 107 is amended to read:

108 Section 5. If any provision of this act or its application
 109 to any person or circumstance is held invalid, the invalidity
 110 does not affect other provisions or applications of the act that
 111 can be given effect without the invalid provision or
 112 application, and to this end the provisions of this act are
 113 severable. ~~section, subsection, sentence, clause, or phrase of~~
 114 ~~this act is held to be unconstitutional, such holding shall not~~
 115 ~~affect the validity of the remaining portions of the act, the~~
 116 ~~Legislature hereby declaring that it would have passed this act~~
 117 ~~and each section, subsection, sentence, clause, and phrase~~
 118 ~~thereof, irrespective of any other separate section, subsection,~~
 119 ~~sentence, clause, or phrase thereof, and irrespective of the~~
 120 ~~fact that any one or more other sections, subsections,~~
 121 ~~sentences, clauses, or phrases thereof may be declared~~
 122 ~~unconstitutional.~~

123 Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1201 Homestead Tax Exemptions
SPONSOR(S): Moskowitz and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 1324

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee		Dugan 	Langston 
2) Local Government Affairs Subcommittee			
3) Local & Federal Affairs Committee			

SUMMARY ANALYSIS

According to Florida Statutes, it is the duty of each property appraiser to examine each claim for homestead property tax exemption in his or her county, and grant the exemption if found to be in accordance with the law. In addition, property appraisers may, but is not required to, file a tax lien on property if the property appraiser discovers the property owner was granted a homestead exemption, but was not entitled to it, in order to collect unpaid taxes, interest, and penalties. Further, if a lien is filed, the normal tax certificate/collection process does not apply.

The bill proposes to authorize property appraisers to contract for services to examine or audit homestead tax exemptions, subject to specific terms in the contract that specify compensation and limit contact with the property owner. It further allows compensation for the contractor to be taken from penalties and back taxes collected pursuant to the contract. The bill also allows the property appraiser to retain the associated interest.

The bill also proposes to require property appraisers to file a tax lien based on fraudulent homestead claims and requires unpaid taxes, interest, and penalties related to the tax lien to be collected pursuant to the normal tax certificate process.

The bill is effective July 1, 2016.

The Revenue Estimating Conference evaluated this bill on January 29, 2016 and estimated that it will have an impact on local government revenues that is indeterminate in both magnitude and direction.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a homestead tax exemption.⁶

According to Florida Statutes, it is the duty of each property appraiser to examine each claim for homestead exemption in his or her county, and grant the exemption if found to be in accordance with the law.⁷

Delinquent Property Taxes

Each year, local property appraisers will certify the tax roll to the corresponding tax collector, and the tax collector will then send tax bills to all properties owing tax within his or her jurisdiction.⁸ Property taxes are due once a year, and can be paid beginning November 1st of the assessment year.⁹ Generally, taxes become delinquent if not paid in full as of April 1st of the year after assessment.¹⁰ Delinquent taxes will accrue interest until paid,¹¹ and may accrue penalties in certain circumstances.¹²

If delinquent ad valorem taxes are not paid by June 1 of the year after assessment, the County holds a tax certificate sale for real property located in the County on which the taxes became delinquent in that

¹ FLA. CONST. art. VII, s. 1(a).

² Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

³ FLA. CONST. art. VII, s. 4.

⁴ FLA. CONST. art. VII, ss. 3, 4, and 6.

⁵ s. 196.031, F.S.

⁶ An additional homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

⁷ s. 196.141, F.S.

⁸ s. 197.322(2), (3), F.S.

⁹ s. 197.333, F.S.

¹⁰ s. 197.333, F.S.

¹¹ s. 197.152, F.S.

¹² See s. 196.161, F.S.

year.¹³ A tax lien certificate is an interest bearing first lien representing unpaid delinquent real estate property taxes; however, it does not convey any property rights or ownership to the certificate holder.

The property owner has a period of two years from the date the taxes became delinquent to redeem the tax certificate by paying to the County the total due, including accrued interest.¹⁴ After the two year period, if the taxes remain unpaid, the lien holder may make an application for tax deed auction with the County.¹⁵ If tax deed auction proceedings begin, the property owner must pay all due and delinquent years, plus fees and interest to stop the sale of their property at public auction.¹⁶ If the tax certificate is not redeemed or sold at auction after seven years, the tax certificate is cancelled and considered null and void.¹⁷

Under current law, when any deferred taxes, assessments, or interest are collected, the tax collector maintains a record of the payment and distributes payments received to each taxing authority in the proportionate share of the collected taxes as reflected in the tax bill.¹⁸ The tax collector will make this distribution at least four times during the first two months after the tax roll comes into the tax collector's possession for collection and at least one time in all other months.¹⁹

Fraudulent Homestead Exemption Claims

Current law provides that if a property owner was granted a homestead exemption, but was not entitled to it, the property appraiser will send the owner a notice of intent to file a tax lien on any property owned by the owner in that county.²⁰ The property owner has 30 days to pay the taxes owed, plus penalties and interest.²¹ If not paid within 30 days of notice, the property appraiser may file a tax lien.²² Even if a tax lien is filed, current administration of the law does not follow the tax certificate process described above. Instead, the tax lien remains on the property until it is paid or expires after 20 years.²³

Proposed Changes

The bill amends s. 196.141, F.S., to authorize the property appraiser to contract for services to examine or audit homestead tax exemptions claimed on assessment rolls. Agreements for such contracted services must provide that:

- the contractor may only contact a person claiming a homestead exemption with the written approval of, and in a manner prescribed by, the property appraiser;
- the contractor must notify the person claiming the homestead exemption that the contractor has been contracted by the property appraiser as a third party to examine or audit homestead tax exemptions;
- the contractor must notify the person claiming the homestead exemption that if the person has questions, the person should contact the property appraiser;
- the contractor must provide the property appraiser's contact information;
- the contractor may not:
 - Falsely impersonate a governmental official.
 - Communicate with the person between 9 p.m. and 8 a.m. in the person's time zone without the person's prior consent.

¹³ s. 197.432, F.S.

¹⁴ s. 197.502, F.S.

¹⁵ Id.

¹⁶ s. 197.472, F.S.

¹⁷ s. 197.482, F.S.

¹⁸ s. 197.383., F.S.

¹⁹ s. 197.383, F.S.

²⁰ s. 196.161, F.S.

²¹ Id.

²² Id.

²³ s. 95.091(1)(b), F.S.

- Suggest, communicate, or threaten the person that any money is owed.
 - Disclose or threaten to disclose any information that is not a public record to a person other than the person claiming the homestead exemption, the person's authorized representative, an adult occupant of the property receiving the homestead exemption, the property appraiser, or the property appraiser's agents or employees.
 - Publish or post, threaten to publish or post, or cause to be published or posted to the public any individual names or list of names.
- after the contractor completes the examination or audit, the contractor must disclose the results to the property appraiser, who will determine whether the person was entitled to the homestead exemption and, if the person was not entitled to the homestead exemption, initiate proceedings pursuant to ss. 196.151 and 196.161;
 - the contractor is solely responsible to the property appraiser for any claims arising from the contractor's performance; and
 - the contractor's compensation shall consist solely of a portion, as specified in the agreement, of the back taxes and penalties imposed pursuant to this chapter and collected on the assessments resulting from the contractor's examination or audit, and the removal of homestead exemptions from previous and current year tax rolls.

The bill provides a property appraiser contracting for such services may receive interest, as set forth in chapter 196, imposed and collected on the taxes owed on previous and current year assessment rolls.

After distributing the compensation for the contracted services and the interest that the property appraiser retains, the tax collector must distribute any back taxes collected pursuant to chapter 197.

The bill amends s. 196.161, F.S., to clarify that a tax lien based on a fraudulent homestead claim shall (not may) be filed for the taxes, penalties, and interest that remain unpaid 30 or more days after the notice of tax lien is sent. Further, the tax lien will remain on the property until the taxes, penalties, and interest are paid in full, and the lien constitutes a first lien as set forth in s. 197.122, F.S.²⁴

The bill provides that the unpaid taxes, interest, and penalties will be added to the next tax assessment if not paid in accordance with s. 196.161, F.S., and shall be collected in the same manner as, and in addition to, the current ad valorem taxes under chapter 197 (including the sale of tax certificates).

The bill amends s. 213.30, F.S., to allow for the collection of money by contractors pursuant to s. 196.141, F.S.²⁵

The bill is effective July 1, 2016.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 196.141, F.S., to authorize the property appraiser to contract for services to examine or audit homestead tax exemptions; specifies compensation and minimum terms of agreement;
- Section 2.** Amends s. 196.161, F.S., to clarify the tax lien procedure for fraudulent homestead claims, as well as the collection of unpaid taxes, interest, and penalties;
- Section 3.** Amends s. 213.30, F.S., to allow for the collect of money by contractors pursuant to s. 196.141, F.S.;
- Section 4.** Provides a finding of important state interest; and

²⁴ A first lien is superior to all other liens on the property, and will only be removed when discharged by payment or until barred under chapter 95.

²⁵ Under current law, s. 213.30 is the sole means by which a person who provide information to the Department of Revenue leading to certain violations of tax laws may be compensated by the department.

Section 5. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference evaluated this bill on January 29, 2016 and estimated that it will have an impact on local government revenues that is indeterminate in both magnitude and direction.

Local governments may, pursuant to contractual agreements between property appraisers and collection agents, collect more taxes, interest, and penalties through the use of contracted services, but will also pay for such services out of the additional revenues.

2. Expenditures:

Local governments may expend more funds to pay for contracted services.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Fraudulent homestead exemption perpetrators may experience an increased likelihood of being caught.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate, or reduce the percentage of 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

1 A bill to be entitled
 2 An act relating to homestead tax exemptions; amending
 3 s. 196.141, F.S.; authorizing property appraisers to
 4 contract for the examination and audit of homestead
 5 exemption claims; specifying terms that must be
 6 included in the contract; specifying prohibited acts
 7 by the contractor; requiring the contractor to
 8 disclose certain information regarding its findings to
 9 the property appraiser; authorizing the property
 10 appraiser to retain certain interest earnings;
 11 amending s. 196.161, F.S.; requiring that certain
 12 unpaid tax liens be included in the next tax roll;
 13 specifying that such lien constitutes a first lien,
 14 superior to all other property liens; deleting
 15 provisions specifying when liens attach to property;
 16 amending s. 213.30, F.S.; providing that use of any
 17 law except specified provisions by a person seeking
 18 funds as a result of another person's tax fraud is in
 19 derogation of homestead exemption laws; providing a
 20 finding of important state interest; providing an
 21 effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 196.141, Florida Statutes, is amended
 26 to read:

27 196.141 Homestead exemptions; duty of property appraiser.—

28 (1) The property appraiser shall examine each claim for
 29 exemption filed with or referred to him or her and shall allow
 30 the exemption ~~same~~, if found to be in accordance with law, by
 31 marking the exemption ~~same~~ approved and by making the proper
 32 deductions on the assessment rolls ~~tax books~~.

33 (2) The property appraiser may contract for services to
 34 examine or audit homestead tax exemptions claimed on assessment
 35 rolls. Agreements for such contracted services shall provide, at
 36 a minimum, that:

37 (a) The contractor may only contact a person claiming a
 38 homestead exemption with the written approval of, and in a
 39 manner prescribed by, the property appraiser. The contractor
 40 must notify the person claiming the homestead exemption that the
 41 contractor has been contracted by the property appraiser as a
 42 third party to examine or audit homestead tax exemptions. The
 43 contractor must notify the person claiming the homestead
 44 exemption that if the person has questions, the person should
 45 contact the property appraiser. The contractor must provide the
 46 property appraiser's contact information. In addition, the
 47 contractor may not:

- 48 1. Falsely impersonate a governmental official.
- 49 2. Communicate with the person between 9 p.m. and 8 a.m.
 50 in the person's time zone without the person's prior consent.
- 51 3. Suggest, communicate, or threaten the person that any
 52 money is owed.

53 4. Disclose or threaten to disclose any information that
 54 is not a public record to a person other than the person
 55 claiming the homestead exemption, the person's authorized
 56 representative, an adult occupant of the property receiving the
 57 homestead exemption, the property appraiser, or the property
 58 appraiser's agents or employees.

59 5. Publish or post, threaten to publish or post, or cause
 60 to be published or posted to the public any individual names or
 61 list of names.

62 (b) After the contractor completes the examination or
 63 audit, the contractor must disclose the results to the property
 64 appraiser, who will determine whether the person was entitled to
 65 the homestead exemption and, if the person was not entitled to
 66 the homestead exemption, initiate proceedings pursuant to ss.
 67 196.151 and 196.161.

68 (c) The contractor is solely responsible to the property
 69 appraiser for any claims arising from the contractor's
 70 performance.

71 (d) The contractor's compensation shall consist solely of
 72 a portion, as specified in the agreement, of the back taxes and
 73 penalties imposed pursuant to this chapter and collected on the
 74 assessments resulting from the contractor's examination or
 75 audit, and the removal of homestead exemptions from previous and
 76 current year tax rolls.

77
 78 A property appraiser contracting for such services may receive

79 the interest as set forth in this chapter imposed and collected
 80 on the taxes owed on previous and current year assessment rolls.
 81 After distributing the compensation for such contracted services
 82 and the interest that the property appraiser retains, the tax
 83 collector shall distribute any back taxes collected pursuant to
 84 chapter 197.

85 Section 2. Section 196.161, Florida Statutes, is amended
 86 to read:

87 196.161 Homestead exemptions; lien imposed on property of
 88 person claiming exemption although not a permanent resident.—

89 (1)(a) When the estate of any person is being probated or
 90 administered in another state under an allegation that such
 91 person was a resident of that state and the estate of such
 92 person contains real property situate in this state upon which
 93 homestead exemption has been allowed pursuant to s. 196.031 for
 94 any year or years within 10 years immediately prior to the death
 95 of the deceased, then within 3 years after the death of such
 96 person the property appraiser of the county where the real
 97 property is located shall, upon knowledge of such fact, record a
 98 notice of tax lien against the property among the public records
 99 of that county, and the property shall be subject to the payment
 100 of all taxes exempt thereunder, a penalty of 50 percent of the
 101 unpaid taxes for each year, plus 15 percent interest per year,
 102 unless the circuit court having jurisdiction over the ancillary
 103 administration in this state determines that the decedent was a
 104 permanent resident of this state during the year or years an

105 exemption was allowed, whereupon the lien shall not be filed or,
 106 if filed, shall be canceled of record by the property appraiser
 107 of the county where the real estate is located.

108 (b) In addition, upon determination by the property
 109 appraiser that for any year or years within the prior 10 years a
 110 person who was not entitled to a homestead exemption was granted
 111 a homestead exemption from ad valorem taxes, ~~it shall be the~~
 112 ~~duty of~~ the property appraiser making such determination shall
 113 ~~to~~ serve upon the owner a notice of intent to record in the
 114 public records of the county a notice of tax lien against any
 115 property owned by that person in the county, and such property
 116 shall be identified in the notice of tax lien. Such property
 117 which is situated in this state shall be subject to the taxes
 118 exempted thereby, plus a penalty of 50 percent of the unpaid
 119 taxes for each year and 15 percent interest per annum. However,
 120 if a homestead exemption is improperly granted as a result of a
 121 clerical mistake or an omission by the property appraiser, the
 122 person improperly receiving the exemption shall not be assessed
 123 penalty and interest. Before any such lien may be filed, the
 124 owner so notified must be given 30 days to pay the taxes,
 125 penalties, and interest. The tax lien shall be filed for the
 126 taxes, penalties, and interest that remain unpaid 30 or more
 127 days after the notice is sent and shall remain on the property
 128 until the taxes, penalties, and interest are paid in full.

129 (2) Except when a homestead exemption is improperly
 130 granted as the result of a clerical error by the property

131 appraiser, the taxes, penalties, and interest assessed pursuant
 132 to this section that are not paid in full shall be included in
 133 the next tax notice and shall be collected in the same manner
 134 as, and in addition to, the current ad valorem taxes under
 135 chapter 197, including the annual tax certificate sale when
 136 appropriate. ~~The collection of the taxes provided in this~~
 137 ~~section shall be in the same manner as existing ad valorem~~
 138 ~~taxes, and the above procedure of recapturing such taxes shall~~
 139 ~~be supplemental to any existing provision under the laws of this~~
 140 ~~state.~~

141 (3) The lien under subsection (1) constitutes a first lien
 142 as set forth in s. 197.122 herein provided shall not attach to
 143 the property until the notice of tax lien is filed among the
 144 public records of the county where the property is located.
 145 ~~Prior to the filing of such notice of lien, any purchaser for~~
 146 ~~value of the subject property shall take free and clear of such~~
 147 ~~lien. Such lien when filed shall attach to any property which is~~
 148 ~~identified in the notice of lien and is owned by the person who~~
 149 ~~illegally or improperly received the homestead exemption. Should~~
 150 ~~such person no longer own property in the county, but own~~
 151 ~~property in some other county or counties in the state, it shall~~
 152 ~~be the duty of the property appraiser to record a notice of tax~~
 153 ~~lien in such other county or counties, identifying the property~~
 154 ~~owned by such person in such county or counties, and it shall~~
 155 ~~become a lien against such property in such county or counties.~~

156 Section 3. Subsection (3) of section 213.30, Florida

157 Statutes, is amended to read:

158 213.30 Compensation for information relating to a
 159 violation of the tax laws.—


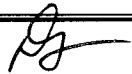
160 (3) Notwithstanding any other provision of law, this
 161 section and s. 196.141 are ~~is~~ the sole means by which a ~~any~~
 162 person may seek or obtain any moneys as the result of, in
 163 relation to, or founded upon the failure by another person to
 164 comply with the tax laws of this state. A person's use of any
 165 other law to seek or obtain moneys for such failure is in
 166 derogation of this section and s. 196.141 and conflicts with the
 167 state's duty to administer the tax laws.

168 Section 4. The Legislature finds that this act fulfills an
 169 important state interest.

170 Section 5. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FTC 16-04 Tax Package
SPONSOR(S): Finance & Tax Committee
TIED BILLS: IDEN./SIM. BILLS:

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

SUMMARY ANALYSIS

The bill provides for a wide range of tax reductions and modifications designed to directly impact both households and businesses, and to improve tax administration.

The bill permanently reduces the state sales tax rate on rental of commercial real estate (business rent tax) from 6% to 5%, beginning January 1, 2017, with an additional one percentage point reduction (to 4%) in calendar year 2018 only. The bill includes new, extended or expanded sales tax exemptions for: machinery and equipment for certain manufacturing, agricultural postharvest activities, and metals recycling; sales at school book fairs for one year; sales of college textbooks and instructional materials for one year; building materials, pest control, and rental of tangible personal property used in new construction in rural areas of opportunity; certain equipment, electricity and building materials used by certain new or expanding Florida datacenters; sales of food and drink by military veterans service organizations to their members, and certain resales of admissions for three years. The bill also clarifies requirements for the current exemption on sales of aircraft that will be registered in a foreign jurisdiction. The bill includes the following sales tax holidays: a ten-day "back-to-school" holiday for clothing, footwear, school supplies, and computers; a one-day "technology" holiday on sales of computers and related accessories; a one-day "small business" holiday, for sales by certain small businesses; and a one day "hunting and fishing" holiday for certain hunting firearms, ammunition, camping tents, and fishing supplies.

For property taxes, the bill: clarifies that for a limited period, economic development tax exemptions can be granted in areas which were designated enterprise zones as of December 30, 2015; expands the homestead exemption available for the surviving spouses of totally and permanently disabled veterans; creates a property tax discount on certain property used for affordable housing; and allows a midyear transfer of the disabled veteran homestead exemption.

For corporate income tax, the bill: temporarily increases total tax credits available for voluntary brownfields clean-up, research and development tax credits, and renewable energy technology and production tax credits. The bill also creates a new tax credit as part of a plastic bag reduction pilot program. The bill adopts the Internal Revenue Code as in effect on January 1, 2016, but decouples from certain federal bonus depreciation provisions and changes certain filing dates to conform with federal filing date changes.

Further changes in the bill include: equalization of the tax rates on apple and pear cider; changes to allowable and required uses of tourist development taxes; elimination of a current exemption from and a reduction of the aviation fuel tax rate; clarification of administration of the tax on other tobacco products; clarification of documentary stamp tax treatment of certain housing authority notes; requiring at least 5% of community redevelopment agency revenues be spent on youth centers in certain circumstances; and replacement of the current tax calculation on liquor and tobacco sold on cruise ships with a simpler, revenue neutral calculation.

The total of -\$991.7 million in tax reductions proposed by the bill is the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The bill also includes nonrecurring General Revenue appropriations of \$762,154. Also see FISCAL COMMENTS section.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb04a.FTC

DATE: 2/2/2016

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Sales Tax

Florida's sales and use tax is a 6 percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, commercial real estate rentals, and motor vehicles, unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's general revenue stream (77.0 percent for FY 2015-2016¹) and is administered by the Department of Revenue (DOR) under chapter 212, F.S.

Sales Tax on Rental of Commercial Real Estate (Business Rent Tax)

Current Situation

Since 1969, Florida has imposed a sales tax on the total rent charged under a commercial lease of real property.² Sales tax is due at the rate of 6 percent on the total rent paid for the right to use or occupy commercial real property and county sales surtax can also be levied on total rent.³ If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.

Commercial real property includes land, buildings, office or retail space, convention or meeting rooms, airport tie-downs, and parking and docking spaces. It may also involve the granting of a license to use real property for placement of vending, amusement, or newspaper machines. However, there are numerous commercial rentals that are not subject to sales tax, including:

- Rentals of real property assessed as agricultural;
- Rentals to nonprofit organizations that hold a current Florida consumer's certificate of exemption;
- Rentals to federal, state, county, or city government agencies;
- Properties used exclusively as dwelling units; and
- Public streets or roads used for transportation purposes.

Florida is the only state to charge sales tax on commercial rentals of real property. The Legislature's Office of Economic and Demographic Research reviewed and issued a report on the business rent tax in 2014.⁴

Proposed Changes

The bill reduces the business rent tax from 6 percent to 5 percent, effective January 1, 2017 and further reduces the tax rate to 4 percent for a one-year period, beginning January 1, 2018 and ending December 31, 2018.

¹ FLORIDA REVENUE ESTIMATING CONFERENCE, 2016 FLORIDA TAX HANDBOOK (2016).

² Ch. 1969-222, Laws of Fla.

³ Section 212.031, F.S., and Rule 12A-1.070, F.A.C.

⁴ Office of Economic and Demographic Research, Economic Impact: Sales Tax on the Rental of Real Property (Nov. 15, 2014).

Industrial Manufacturing and Equipment Sales Tax Exemption

Current Situation

Since April 30, 2014⁵, state law⁶ exempts from sales and use tax purchases of industrial machinery and equipment used at a fixed location in Florida by an eligible manufacturing business that will manufacture, process, compound, or produce items of tangible personal property. The exemption also includes parts and accessories for the industrial machinery and equipment if they are purchased before the date the machinery and equipment are placed in service.

An "eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment are located is within the industries classified under manufacturing North American Industry Classification System⁷ (NAICS) codes 31, 32, and 33⁸. The primary business activity of an eligible business is that activity which represents more than 50 percent of the activities conducted at the location where the industrial machinery and equipment are located. Examples of types of manufacturing establishments represented by the applicable NAICS codes include, but are not limited to, food, apparel, wood, paper, printing, chemical, pharmaceutical, plastic, rubber, metal, transportation, and furniture.

The selling dealer (vendor) is required to obtain a signed certificate from the purchaser certifying the purchaser's entitlement to the tax exemption. The signed certificate will relieve the selling dealer of any potential tax liability on nonqualifying purchases.

Also included in the exemption are mixer drums affixed to mixer trucks which are used to mix, agitate, and transport freshly mixed concrete in a plastic state for the manufacture, processing, compounding, or production of items of tangible personal property for sale. Parts and labor required to affix a mixer drum to a mixer truck are also exempt.

The exemption expires on April 30, 2017.

Proposed Changes

The bill amends s. 212.08, F.S., to make permanent the sales and use tax exemption for certain industrial machinery and equipment purchased by eligible manufacturing businesses. The bill also adds to the list of eligible manufacturing businesses, those whose primary activity at the location where the industrial machinery and equipment is located is classified under NAICS code 423930⁹ (metals recyclers).

The bill also adds an exemption for certain "postharvest machinery and equipment" for eligible businesses whose primary business activity at the location where the postharvest machinery and equipment is located is within NAICS code 115114.¹⁰ Postharvest machinery is defined as tangible

⁵ Ch. 2013-39, Laws of Fla

⁶ Section 212.08(7)(kkk), F.S.

⁷ North American Industry Classification System, NAICS Code Description available at <http://www.naics.com/naics-code-description/?code=31> (last visited January 21, 2016).

⁸ NAICS codes 31-33 pertain to manufacturing businesses. A more detailed description of the specific types of businesses included in NAICS codes 31-33 is available at: <http://www.naics.com/six-digit-naics/?code=3133>; (last visited January 21, 2016).

⁹ NAICS code 423930 pertains to recyclable material merchant wholesalers. This industry comprises establishments primarily engaged in the merchant wholesale distribution of automotive scrap, industrial scrap, and other recyclable materials. A more detailed description of the specific types of businesses included in NAICS code 423930 is available at: <http://www.naics.com/naics-code-description/?code=423930> (last visited January 21, 2016)

¹⁰ NAICS code 115114 pertains to establishments primarily engaged in performing services on crops, subsequent to their harvest, with the intent of preparing them for market or further processing. See: <http://www.naics.com/naics-code-description/?code=115114>

personal property or other property that has a depreciable life of 3 years or more and that is used primarily for postharvest activities, and includes repair parts, materials and labor.

The bill retains the repeal date of April 30, 2017, for the sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck.

Veterans' Organizations

Current Situation

There is a sales tax exemption for sales or leases of tangible personal property to qualified veterans' organizations and their auxiliaries when used in carrying on their customary veteran's organization activities.¹¹ Veterans' organizations are defined as nationally chartered organizations which hold certain exemptions from federal income tax, including, but not limited to Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc.¹²

Proposed Changes

The bill adds to the current sales tax exemption sales of food or drinks by qualified veterans' organizations in connection with customary veterans' organization activities to members of qualified veterans' organizations. The bill also explicitly lists the American Legion and Veterans of Foreign Wars of the United States, as qualified veterans' organizations.

Datacenters

Current Situation

There is no current provision or program that specifically provides sales tax exemptions for purchases of equipment, electricity and building materials for datacenters.

Proposed Changes

The bill establishes a program that would allow certain qualifying datacenters to apply for certification with the Department of Economic Opportunity (DEO) that one or more of the datacenter's owners, operators, users, or tenants, individually, has or will make a cumulative capital investment of at least \$75,000,000 during a five-year period. Such expenditure does not include replacement of equipment that has reached its useful life, or the purchase of existing datacenters. Once certified, a business would have a sales tax exemption on the purchase of datacenter equipment, electricity for a datacenter and building materials for the construction or expansion of a datacenter.

The bill provides for the process which by which a business may apply for and receive certification for the sales tax exemptions described above. The bill provides definitions of "datacenter," "datacenter equipment," "qualifying datacenter," "cumulative capital investment," and "eligible costs." The bill tolls the statute of limitations on DOR's authority to audit from the time a business receives an exemption certificate until the time that DEO makes a final certification determination. The bill allows DEO to revoke a business' certification under specified circumstances and allows for the recovery of funds for which a determination is made by DOR that a certified business was not entitled to the certification.

Sales Tax on Admissions

Current Situation

¹¹ Section 212.08(7)(n)1., F.S.

¹² Section 212.08(7)(n)2., F.S.

Section 212.04, F.S., governs the state sales tax on admissions. Sales tax is levied at the rate of 6 percent of sales price or the actual value received from admissions. Admissions are defined as the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any:

- Place of amusement, sport, or recreation including, but not limited to, theaters, shows, exhibitions, games, races;
- Place where charge is made by way of sale of tickets, gate charges, and similar fees or charges;
- Receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation; and
- All dues and fees paid to private clubs and membership clubs providing recreational or physical fitness facilities, including, but not limited to, golf, tennis, swimming, yachting, boating, athletic, exercise, and fitness facilities.

Several exceptions and exemptions exist, such as:

- Memberships for physical fitness facilities owned or operated by any hospital;
- Admissions to athletic or other events sponsored by a school;
- Fees or charges imposed by certain not-for-profits;
- Events sponsored by a governmental entity, nonprofit sports authority, or nonprofit sports commission under certain circumstances;
- Certain admissions to professional sports championship games;
- Entry fees for freshwater fishing tournaments;
- Participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event;
- Admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.

Generally speaking, sales of tangible personal property made for resale are exempt from sales tax.¹³ This treatment does not apply to sales of taxable admissions.¹⁴

Proposed Changes

The bill provides an exemption for certain resales of admissions to a purchaser that is eligible for an exemption from sales tax. The bill allows a person who has purchased a taxable admission and resells that admission to an entity with a valid exemption certificate from DOR to seek a refund or credit of the tax paid on its initial purchase of the admission from the vendor of the initial sale. The vendor may then seek a refund or credit of the tax from DOR. This exemption is scheduled to repeal on July 1, 2019.

College or University Textbooks Sales Tax Exemption

Current Situation

In 2015, the Legislature created a one-year sales tax exemption¹⁵ for textbooks, and printed and digital materials required or recommended for a course offered by a public postsecondary educational institution or a nonpublic postsecondary educational institution that is eligible to participate in the tuition assistance programs.

To obtain the tax exemption, a student must provide either a physical or an electronic copy of the following to the vendor:

¹³ See the definition of “retail sale” in s. 212.02(14), F.S. Also see s. 212.07, F.S.

¹⁴ Section 212.04(1)(c), F.S.

¹⁵ Section 29, ch. 2015-221, L.O.F.

- His or her student identification number; and
- Either an applicable course syllabus or list of required and recommended textbooks and instructional materials.

The vendor must maintain proper documentation, as prescribed by rule, to identify either complete transactions or the portion of a transaction which involves the sale of tax-exempted textbooks.

Proposed Changes

The bill would extend the exemption on college textbooks through June 30, 2017.

Book Fairs Sales Tax Exemption

Current Situation

Books sold at a book fair on the premises of K through 12 schools are currently subject to sales tax.

Proposed Changes

The bill creates a one-year exemption on the sale of books and other reading materials at book fairs on the premises of K through 12 schools. If the sales are made by a third-party vendor, the vendor must commit all or some of the profit from the book fair to be used for the benefit of the school.

Aircraft Registered in a Foreign Jurisdiction

Current Situation

Generally speaking, sales of tangible personal property for export are not subject to tax in Florida. The legal rules governing taxability in the context of an export of tangible personal property can be complex, as can be the documentation requirements. Rule 12-1.007(10)(d)1., F.A.C., provides that:

Aircraft being exported under their own power to a destination outside the continental limits of the United States are subject to tax, unless the purchaser furnishes the dealer a duly signed and validated United States Customs declaration, showing the departure of the aircraft from the continental United States and the canceled United States registry of said aircraft. The burden of obtaining the evidential matter to establish the exemption rests with the selling dealer, who must retain the proper documentation to support the exemption.

Other provisions of Florida law may be implicated in this type of transaction.

Proposed Changes

The bill clarifies the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction. The bill specifies that an exemption applies on the purchase of an aircraft in Florida for aircraft that will be registered in a foreign jurisdiction, if:

- Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days from the date of purchase,
- The purchaser removes the aircraft from Florida to a foreign jurisdiction within 10 days from the date the aircraft is registered by the applicable foreign airworthiness authority, and
- The aircraft is operated in Florida solely for the removal from the state to a foreign jurisdiction

Sales Tax Holidays

Current Situation

Since 1998, the Legislature has enacted 19 temporary periods (commonly called “sales tax holidays”) during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

Back-to-School Holidays--Florida has enacted a “back to school” sales tax holiday 14 times since 1998. The length of the exemption periods has varied from three to 10 days. The type and value of exempt items has also varied. Clothing and footwear have always been exempted at various thresholds, most recently \$100. Books valued at \$50 or less were exempted in six periods. School supplies have been included starting in 2001, with the value threshold increasing from \$10 to \$15. In 2013, personal computers and related accessories purchased for noncommercial home or personal use with a sales price of \$750 or less were exempted. In 2014, the first \$750 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use were exempted. The following table describes the history of back to school sales tax holidays in Florida:

Dates	Length	TAX EXEMPTION THRESHOLDS				
		Clothing/ Footwear	Wallets/ Bags	Books	Computers	School Supplies
August 15-21, 1998	7 days	\$50 or less	N/A	N/A	N/A	N/A
July 31-August 8, 1999	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 29-August 6, 2000	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 28-August 5, 2001	9 days	\$50 or less	\$50 or less	N/A	N/A	\$10 or less
July 24-August 1, 2004	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 13-15, 2010	3 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 12-14, 2011	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 3-5, 2012	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 2-4, 2013	3 days	\$75 or less	\$75 or less	N/A	\$750 or less	\$15 or less
August 1-3, 2014	3 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 7 - 16, 2015	10 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less

Small Business Saturday--In 2010, American Express instituted a “Small Business Saturday” incentive for their cardholders who shopped at small, independent business on the Saturday after “Black

Friday.”¹⁶ It is estimated that consumers spent \$5.5 billion at small, independent businesses on Small Business Saturday in 2012, with pre-holiday surveys estimated at \$5.3 billion.¹⁷

Outdoor Recreation in Florida--According to the Florida Fish and Wildlife Conservation Commission, recreational fishing, hunting and wildlife-viewing in Florida generate an economic impact of \$10.1 billion annually.¹⁸ Florida has one of the largest public-hunting systems in the country, and there are approximately 242,000 hunters in the state.¹⁹ Florida leads all states in economic impacts for its marine recreational fisheries,²⁰ and there are over two million Florida residents who are angler fisherman.²¹

Proposed Changes

The bill establishes four sales tax holidays during the 2016-2017 fiscal year. DOR may adopt emergency rules to implement the provisions of each holiday.

Back-to-School Holiday--The bill provides for a ten-day sales tax holiday from August 5, 2016, through August 14, 2016. During the holiday, the following items that cost \$100 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an “article of wearing apparel intended to be worn on or about the human body,” but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

The bill also exempts “school supplies” that cost \$15 or less per item during the holiday.

Also exempt will be the first \$750 of the sales price for personal computers and related accessories purchased for noncommercial home or personal use. This would include tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted.

Hunting and Fishing Sales Tax Holiday--The bill provides for a one day sales tax holiday on August 20th, 2016, for certain firearms, ammunition, camping tents, and fishing supplies. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- Firearms (defined as rifles, shotguns, spearguns, crossbows, and bows);
- Ammunition for rifles, shotguns, spearguns, crossbows, and bows;
- Camping tents; and
- Fishing supplies (defined as non-commercial rods, reels, bait, and fishing tackle).

¹⁶ American Express, *Small Business Saturday*, available at: <https://www.americanexpress.com/us/content/small-business/shop-small/about/?linknav=us-open-shops-small-homepage-about> (last visited January 23, 2016).

¹⁷ *Small Business Saturday® Results: Shoppers Provide Encouraging Start to the Holiday Shopping Season*, November 30, 2015, available at <http://www.businesswire.com/news/home/20151130005359/en/Small-Business-Saturday%C2%AE-Results-Shoppers-Provide-Encouraging> (last visited January 23, 2016).

¹⁸ Florida Fish and Wildlife Conservation Commission (FWC), *Economic Impact of Outdoor Recreation*, available at: <http://myfwc.com/conservation/value/outdoor-recreation> (last visited January 23, 2016).

¹⁹ FWC, *Overview – Fast Facts*, available at: <http://myfwc.com/about/overview> (last visited January 23, 2016).

²⁰ FWC, *Economic Impact of Outdoor Recreation*, available at: <http://myfwc.com/conservation/value/outdoor-recreation/> (last visited January 23, 2016)

²¹ FWC, *Overview – Fast Facts*, available at: <http://myfwc.com/about/overview/>(last visited January 23, 2016).

Technology Sales Tax Holiday--The bill provides a one-day sales tax holiday on April 22, 2017. During the holiday, the first \$1,000 of the sales price of the following items is exempt from the state sales tax and county discretionary sales surtaxes:

- Personal Computers (includes electronic book readers, laptops, desktops, handhelds, tablets, cellular telephones, or tower computers); and
- "Personal computer-related accessories" (includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software).

The "back to school," "hunting and fishing" and "technology" sales tax holidays do not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

Small Business Saturday Tax Holiday--The bill provides for a one day sales tax holiday on November 26, 2016. During the holiday, items priced \$1,000 or less that are sold by certain "small businesses" are exempt from the state sales tax and county discretionary sales surtaxes.

The bill defines "small business" as a dealer, as defined in s. 212.06, F.S., that registered with the DOR and began operation no later than January 11, 2016, and that owed and remitted less than \$200,000 in sales tax to the DOR during the one-year period ending September 30, 2016. If the business has not been in operation for a complete year as of September 30, 2016, the business may qualify if it owed and remitted less than \$200,000 in sales tax from the first day of operation until September 30, 2016.

If the business is eligible to file a consolidated return (e.g., has multiple places of business), the total sales tax owed and remitted by the business' locations must be less than \$200,000 during the applicable period ending September 30, 2016.

Rural Areas of Opportunity

Current Situation

Florida's Rural Economic Development Initiative (REDI), housed within DEO, is a multi-agency endeavor that coordinates the efforts of regional, state, and federal agencies to the address the issues that affect the fiscal, economic and community viability of the state's economically distressed rural communities. REDI works with local governments, community-based organizations, and private entities that have an interest in the growth and development of these communities to find ways to balance environmental and growth management issues with local needs and economic development. A number of agencies and organizations are directed to designate a staff person to serve as REDI representatives.²²

A Rural Area of Opportunity (RAO) is a rural community, or a region comprised of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, a natural disaster, or severe or chronic distress. The area may also be classified as a RAO if it presents a unique economic development opportunity of regional impact.²³

The Governor may designate up to three RAO areas for five-year periods upon recommendation by REDI. This allows these areas to receive priority assignments for REDI, and allows the Governor, acting through REDI, to waive certain criteria or requirements of any economic development incentives.²⁴ Currently, there are three designated RAO areas:

²² Section 288.0656(6)(a), F.S.

²³ Section 288.0656(2)(d), F.S.

²⁴ Section 288.0656(7)(1), F.S.

- North West RAO – Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla and Washington Counties, and the City of Freeport in Walton County.
- South Central RAO – DeSoto, Glades, Hardee, Hendry, Highlands and Okeechobee Counties, the Cities of Pahokee, Belle Glade and South Bay in Palm Beach County, and a portion of the Immokalee area in Collier County.
- North Central RAO – Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor and Union Counties.

Sales & Use Tax on Building Materials, Rental of Tangible Personal Property, and Pest Control Services

Sales and use tax are currently levied on the purchase of building materials, pest control services, and the rental of tangible personal property used in the construction of improvements to real property in Rural Areas of Economic Opportunity. The tax is collected at a state rate of 6% and a local rate which varies from 0% to 1.5% depending on the county.

Proposed Changes

The bill creates an exemption from sales and use tax for the purchase of building materials, pest control services, and the rental of tangible personal property used in new construction in Rural Areas of Opportunity. The exemption is provided in the form of a refund of taxes paid, and is capped at \$10,000 per parcel. The bill provides for a procedure by which taxpayers submit an application to REDI. Within 10 days of receipt of a completed application, REDI must review the application and, if it meets the requirements of the bill, certify to DOR that a refund is to be issued.

Corporate Income Tax

Florida levies corporate income tax on corporations of 5.5 percent for income earned in Florida.²⁵ The calculation of Florida corporate income tax starts with a corporation's federal taxable income.²⁶ After certain addbacks and subtractions to federal taxable income required by chapter 220, F.S., the amount of adjusted federal income attributable to Florida is determined by the application of an apportionment formula.²⁷ The Florida corporate income tax uses a three-factor apportionment formula consisting of property, payroll, and sales (which is double-weighted) to measure the portion of a multistate corporation's business activities attributable to Florida.²⁸ Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first \$50,000 of net income is exempt.²⁹

Voluntary Cleanup Tax Credit Program - Brownfields Tax Credit

Current Situation

In 1998, the Legislature provided the Department of Environmental Protection (DEP) the direction and authority to issue tax credits as an additional incentive to encourage site rehabilitation in brownfield areas and to encourage voluntary cleanup of certain other types of contaminated sites. This corporate income tax credit may be taken in the amount of 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites:

²⁵ Section 220.11, F.S.

²⁶ Section 220.12, F.S.

²⁷ Section 220.15, F.S.

²⁸ Section 220.15, F.S.

²⁹ Section 220.14, F.S.

- A site eligible for state-funded cleanup under the Drycleaning Solvent Cleanup Program (DSCP);³⁰
- A drycleaning solvent contaminated site at which the real property owner undertakes voluntary cleanup, provided that the real property owner has never been the owner or operator of the drycleaning facility; or
- A brownfield site in a designated brownfield area.³¹

Eligible tax credit applicants may receive up to \$500,000 per site per year in tax credits. Due to concern that some participants in a voluntary cleanup might only conduct enough work to eliminate or minimize their exposure to third party lawsuits, the VCTC statute also provides a completion incentive in the form of an additional 25 percent supplemental tax credit for those applicants that completed site rehabilitation and received a Site Rehabilitation Completion Order from the DEP. This additional supplemental credit has a \$500,000 cap. Businesses are also allowed a one-time application for an additional 25 percent of the total site rehabilitation costs, up to \$500,000, for brownfield sites at which the land use is restricted to affordable housing. They may also submit a one-time application claiming 50 percent of the costs, up to \$500,000, for removal, transportation and disposal of solid waste at a brownfield site.

Site rehabilitation tax credit applications must be complete and submitted by January 31 of each year. The total amount of tax credits for all sites that may be granted by the DEP is \$5 million annually. In the event that approved tax credit applications exceed the \$5 million annual authorization, the statute provides for remaining applications to roll over into the next fiscal year to receive tax credits in first come, first served order from the next year's authorization. These tax credits may be applied toward corporate income tax in Florida. The tax credits may be transferred one time, although they may succeed to a surviving or acquiring entity after merger or acquisition.

The Legislature increased the annual amount of credits that could be awarded from \$5 million to \$21.6 million for fiscal year 2015-2016.³²

Proposed Changes

The bill increases the amount of credits that may be awarded from \$5 million to \$8 million in fiscal year 2016-17.

Florida Renewable Energy Production Credit

Current Situation

In 2006,³³ the Legislature created the Florida Renewable Energy Production Credit under s. 220.193, F.S., which was designed to encourage the development and expansion of facilities that produce renewable energy in Florida. In 2012,³⁴ the Legislature modified the Florida Renewable Energy Production Credit for electricity produced and sold on or after January 1, 2013.

Under current law, the credit is available to new renewable energy facilities that were operationally placed in service after May 1, 2006,³⁵ or expanded renewable energy facilities that increased electrical production and sale by more than five percent over what they had produced during 2011.³⁶ The tax

³⁰ Section 376.30781, F.S.

³¹ Section 220.1845, F.S.

³² Ch. 2015-221, Laws of Fla (HB 33A)

³³ Ch. 2006-230, Laws of Fla. (SB 888)

³⁴ Ch. 2012-117, Laws of Fla. (HB 7117)

³⁵ Section 220.193(1)(e), F.S. The term includes a Florida renewable energy facility that has had an expansion operationally placed in service after May 1, 2006, and whose cost exceeded 50 percent of the assessed value of the facility immediately before the expansion.

³⁶ Section 220.193(1)(c), F.S.

credit is based on the taxpayer's production and sale of electricity, and equals \$0.01 for each kilowatt-hour of electricity produced and sold or used during a given tax year.³⁷

The combined total amount of tax credits which may be granted for all taxpayers was limited to \$5 million in state fiscal year 2012-13 and \$10 million per state fiscal year in state fiscal years 2013-14 through 2016-17.³⁸ If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.192³⁹ but unallocated due to a lack of authorized funds.

Credits may not be granted beyond state fiscal year 2016-17.⁴⁰

Proposed Changes

The bill proposes to extend the Florida Renewable Energy Production Credit through state fiscal year 2017-18. The bill sets the combined total amount of tax credits which may be granted for all taxpayers in state fiscal years 2016-2017 through 2017-18 at \$10 million per state fiscal year. The bill also adds to the list of "new facilities" that may receive the credit, certain nonpublic waste-to-energy facilities sited pursuant to ss. 403.501 – 403.518, F.S.

Florida Renewable Energy Technology Credit

Current Situation

In 2006,⁴¹ the Legislature created the Florida Renewable Energy Technology Credit under s. 220.192, F.S., which was designed to encourage the development and expansion of facilities that produce renewable energy in Florida. In 2012,⁴² the Legislature modified the Florida Renewable Energy Technology Credit by expanding it to include materials used in the distribution of other renewable fuels, and extending the program, in effect, through state fiscal year 2016-17.

Under current law, The Renewable Energy Technologies Investment Tax Credit program provides an annual corporate tax credit equal to 75 percent of all capital costs, operation and maintenance costs, and research and development costs in connection with an investment in the production, storage, and distribution of biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel in the state. Eligible costs must be incurred between July 1, 2012, and June 30, 2016, and may not exceed \$1 million per state fiscal year for each taxpayer with a limit of \$10 million per state fiscal year. If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.193⁴³ but unallocated due to a lack of authorized funds.

In effect, the program will expire after fiscal year 2016-17.⁴⁴

Proposed Changes

The bill extends the Florida Renewable Energy Technology Credit through FY 2017-18. The bill sets the combined total amount of tax credits which may be granted for all taxpayers in state fiscal years 2016-2017 through 2017-18 at \$10 million per state fiscal year.

³⁷ Section 220.193(3), F.S.

³⁸ Section 220.193(3)(g), F.S.

³⁹ Renewable energy technologies investment tax credit.

⁴⁰ Section 220.193(3)(g), F.S.

⁴¹ Ch. 2006-230, Laws of Fla. (SB 888)

⁴² Ch. 2012-117, Laws of Fla. (HB 7117)

⁴³ Renewable energy production tax credit.

⁴⁴ Section 220.192(1)(c), and (2), F.S.

Research and Development Credits

Current Situation

Federal Tax Credit--The "U.S. Research and Experimentation Tax Credit" was created in 1981 as part of the Economic Recovery Tax Act, a comprehensive package of initiatives designed to boost U.S. business competitiveness and encourage investment and savings by American taxpayers during a period of economic recession.⁴⁵ For the 2012 federal tax year, 15,873 companies claimed \$10.8 billion in R&D tax credits, including \$168.9 million claimed via "pass-through" entities.⁴⁶ At \$6.6 billion, manufacturing companies claimed the largest portion of research tax credits.⁴⁷

Florida Tax Credit--Section 220.196, F.S., authorizes an R&D tax credit against state corporate income taxes for certain businesses with qualified research expenses that received the federal credit. The tax credit is 10 percent of the difference between the current tax year's research and development expenditures in Florida and the average of R&D expenditures over the previous four tax years. However, if the business has existed fewer than four years, then the credit amount is reduced by 25 percent for each year the business or predecessor corporation did not exist.

The state tax credit taken in any taxable year may not exceed 50 percent of the company's remaining net corporate income tax liability under ch. 220, F.S., after all other credits to which the business is entitled have been applied. Any unused credits may be carried forward by the business that originally earned them for up to 5 years following the year in which the qualified research expenses were incurred.

The maximum amount of research and development credits that may be approved by DOR during any calendar year is \$9 million, except for calendar year 2016 which has a cap of \$23 million. Applications may be filed with DOR between March 20th and March 27 for qualified research expenses incurred within the preceding calendar year. If the total amount of credits applied for exceeds the annual cap, credits are distributed on a prorated basis.

During the application period beginning in 2015, when credits were distributed on a first-come first-served basis instead of prorated, the DOR received a total of 81 applications for \$24 million worth of credits. Of these, 20 received full funding, 1 received partial funding, 59 were denied due to the cap having exceeded, and 1 was denied because it was a duplicate. All of the applications which received funding were filed within 6 minutes of the application window opening.⁴⁸

Proposed Changes

The bill increases from \$9 million to \$15 million the maximum amount of credits that may be approved in calendar year 2017.

Plastic Bags

Current Situation

⁴⁵ "The U.S. Research and Experimentation Tax Credit in the 1990s" by Francisco Moris. National Science Foundation Report #NSF05-316 published July 2005. Retrieved at <http://www.nsf.gov/statistics/infbrief/nsf05316/> and "The Prospects for Economic Recovery," prepared by the Congressional Budget Office. Published February 1982. Pertinent information on pages 87-93. Retrieved at <http://www.cbo.gov/ftpdocs/51xx/doc5135/doc03b-Part8.pdf>. (last visited on January 25, 2016)

⁴⁶ Internal Revenue Service, Statistics of Income Division. Retrievable at <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit>. (last visited January 25, 2016)

⁴⁷ Ibid.

⁴⁸ DOR Research & Development Tax Credit Allocation Report. Retrievable at http://dor.myflorida.com/dor/taxes/documents/rd_credit.pdf (last visited January 25, 2016).

Most retail establishments provide a complimentary bag to its customers at the point of sale, which are commonly made of paper or plastic. Nationwide estimates indicate Americans used almost 90 billion retail bags in 2003, and only a relatively small percentage are reused or recycled (12 percent of plastic bags and 37 percent of paper bags).⁴⁹

Numerous jurisdictions throughout the country have proposed or adopted fees, bans, or other programs to discourage the use of disposable bags or to promote bag recycling. Regulating bags can mitigate harmful impacts to oceans, rivers, lakes, and the wildlife that inhabit them. In March 2007, San Francisco became the first city in the United States to ban non-biodegradable bags from large grocery stores and pharmacies. As of 2014, six states and Washington D.C. have enacted legislation related to the use of plastic bags.⁵⁰

As part of the Energy, Climate Change, and Economic Security Act of 2008, the Florida Legislature directed the Department of Environmental Protection (FDEP) to undertake an analysis of the need for new or different regulation of auxiliary containers, wrapping, or disposable plastic bags used by consumers to carry products from retail establishments. On February 1, 2010 the FDEP published the Retail Bags Report, which yielded 12 options to be considered by the Legislature.

Pursuant to Florida law, no state or local retail bag regulations can be enacted until the Florida Legislature takes action on the recommendations provided in FDEP's Retail Bag report.⁵¹

Proposed Changes

The bill creates a pilot program to incentivize Florida businesses to reduce the amount of plastic bags provided to customers. The Department of Revenue will administer the program and provide corporate income tax credits to eligible businesses located in coastal counties with a population greater than one million.

Businesses that wish to participate in pilot program must apply to the Department of Revenue between March 20 and March 27 of calendar year 2019.

A business is eligible to receive the tax credit if it:

- Is located in a coastal county,
- Has a base amount of at least 500,000 plastic bags for locations in coastal counties in calendar year 2016, and
- Demonstrates a reduction of at least 5 percent from the base amount at locations in a coastal county as of the end of calendar year 2018.

Each business's credit will be based on the business's reduction in plastic bags, measured from calendar year 2016 to 2018. The credit for an eligible applicant will be equal to the applicant's share of the total reduction in bag usage of all qualified applicants, multiplied by \$5 million. The pilot program will provide tax credits one time (in calendar year 2019) before it is set to expire in calendar year 2020, unless reviewed and reauthorized by the Legislature.

The Department of Revenue may adopt rules to administer the program.

Federal Tax Code Conformance--"Piggyback"

Current Situation

⁴⁹ Florida Department of Environmental Protection, Retail Bags Report, February 1, 2010.

⁵⁰ National Conference of State Legislatures, State Plastic and Paper Bag Legislation, January 22, 2015.

⁵¹ Section 403.7033, F.S.

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.⁵² The determination of taxable income for Florida tax purposes begins with the taxable income determined for federal income tax purposes.⁵³ This means that a corporation paying taxes in Florida receives the same treatment in Florida as is allowed in determining its federal taxable income.

Florida maintains its relationship with the federal Internal Revenue Code by each year adopting the federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income.

Tax Calculation

On December 18, 2015, the federal government passed the Consolidated Appropriations Act, 2016,⁵⁴ which contains several significant amendments to the Internal Revenue Code.

Generally, the Internal Revenue Code allows a taxpayer to deduct the cost of capital assets by deducting a portion of the cost over the useful life of the property (depreciation).⁵⁵ Additionally, the Internal Revenue Code allows a taxpayer to treat a certain amount of the cost of capital assets as a business expense that can be taken entirely in the year of purchase (expensing).⁵⁶ Prior to the Consolidated Appropriations Act, 2016, the amount that could be expensed was limited to \$25,000.

Federal legislation during the past several years⁵⁷ granted accelerated depreciation deductions (bonus depreciation) and increases in the expensing limitation on a temporary basis. However, the Consolidated Appropriations Act, 2016 permanently increased the expensing limitation from \$25,000 to \$500,000 for property placed in service in 2015 and thereafter. In addition, the Consolidated Appropriations Act, 2016 extended for five years the first-year bonus depreciation amount of 50 percent of the cost of the property placed in service during 2015. The percentage is 50 percent for property placed in service during 2015, 2016, and 2017, but then phases down to 40 percent in 2018 and 30 percent in 2019.⁵⁸ The estimated impact if Florida were to accept all of these changes in its tax code for fiscal years 2015-16 and 2016-17 combined is -\$396.6 million.⁵⁹

Corporate Income Tax Returns

On July 31, 2015, the federal government passed the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015,⁶⁰ which contains amendments to the Internal Revenue Code regarding the due date for federal corporate income tax returns. For federal income tax return purposes, the following changes apply for tax years beginning after 2015 (unless otherwise specified):

Return Type	Due Date Under Prior Law (extension due date in parentheses)	Due Date Under New Law (extension due date in parentheses)	Comments
Partnership (calendar year)	April 15 (September 15)	March 15 (September 15)	

⁵² Section 220.11(2), F.S.

⁵³ Section 220.12, F.S.

⁵⁴ Pub. L. No. 114-113, Division Q, s. 143, H.R. 2029, 114th Cong. (December 18, 2015).

⁵⁵ See generally 26 U.S.C. §§ 167 and 168.

⁵⁶ See generally 26 U.S.C. § 179.

⁵⁷ The Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and the American Taxpayer Relief Act of 2012.

⁵⁸ The bonus depreciation amount begins in 2019 for certain longer-lived and transportation property.

⁵⁹ Revenue Estimating Conference, January 20, 2016.

⁶⁰ Pub.L. No. 114-41, H.R. 3236 (July 31, 2015).

Partnership (fiscal year)	15th day of 4th month after the year- end (15th day of 10th month)	15th day of 3rd month after the year- end (15th day of 9th month)	
C-corporation (calendar year)	March 15 (September 15)	April 15 (September 15)	For tax years after December 31, 2025, the extension due date is changed to October 15
C-corporation (fiscal year ending June 30)	September 15 (March 15)	September 15 (April 15)	
C-corporation (fiscal year ending other than June 30 or December 31)	15th day of 3rd month after year-end (15th day of 9th month after year- end)	15th day of 4th month after year-end (15th day of 10th month after year- end)	For tax years after December 31, 2025, the return due date is changed to October 15

Under Florida law, the due dates to file several tax returns related to corporate income tax are tied to the federal law. Florida corporations must file income tax returns on or before the 4th month following the close of the tax year or the 15th day following the federal due date (on or before the 5th month for partnership informational returns).⁶¹

When a Florida corporation or partnership is granted an extension of time to file its federal return, the taxpayer may file an extension of time to file its Florida return;⁶² if granted, the extended Florida due date will be the 15th day after the expiration of the federal extension, or until the expiration of 6 months from the original due date, whichever occurs first.⁶³ If a taxpayer extends the time to file its Florida return, Florida law requires the taxpayer to file a tentative tax return, which is due on or before the federal due date.⁶⁴

Florida law requires every taxpayer to make a declaration of estimated tax each tax year, which is due before the 1st day of the 5th month of each tax year.⁶⁵ However, if a taxpayer reasonably expects to first meet the minimum tax requirement of \$2,500 in corporate income tax:

- after the 3rd month and before the 6th month of the tax year the declaration is due before the 1st day of the 7th month;
- after the 5th month and before the 9th month of the tax year the declaration is due before the 1st day of the 10th month; or
- after the 8th month and before the 12th month of the tax year the declaration is due before the 1st day of the succeeding taxable year.⁶⁶

Proposed Changes

Tax Calculation

⁶¹ Section 220.222(1), F.S.

⁶² If a taxpayer extends the time to file its Florida return, the taxpayer must file a tentative tax return pursuant to s. 220.32, F.S.

⁶³ Section 220.222(2), F.S.

⁶⁴ Section 220.32, F.S.

⁶⁵ Sections 220.24 and 220.241, F.S.

⁶⁶ *Id.*

The bill updates the Florida tax code to reflect changes in the federal Internal Revenue Code enacted by Congress.

The bill adopts the permanent increase in the expensing limitation from \$25,000 to \$500,000. However, in order to mitigate the Fiscal Year 2016-17 impact of the accelerated federal depreciation deductions on Florida, the bill requires taxpayers, for Florida tax purposes only, to spread the effect of this deduction over seven taxable years. The bill accomplishes this by requiring taxpayers to “add-back” the bonus depreciation deduction. The taxpayer is then permitted to subtract from income one-seventh (1/7) of the “add-back” for the current taxable year and the following six taxable years. This mechanism was used to address the impacts of similar federal legislation in 2009, 2011, 2013, and 2015.⁶⁷

Corporate Income Tax Returns

The bill also adjusts several Florida tax return due dates to reflect the federal due date changes. Upon this bill becoming law, the following due dates will apply:

- For tax years 2016 through 2025:
 - Due Date
 - All partnership returns must be filed on or before the 4th month after the year-end
 - All C-corporation returns must be filed on or before the 5th month after the year-end, or the 15th day following the federal due date
 - Extension Due Date
 - If the taxpayer received a federal extension, the Florida due date is:
 - the expiration of 7 months from the original due date for June 30 year-end taxpayers
 - the expiration of 5 months from the original due date for all taxpayers (except June 30 year-end taxpayers)
 - Estimated Tax Due Date
 - All June 30 year-end taxpayers must file a declaration of estimated tax before the 1st day of the 5th month of each tax year, unless required to file later pursuant to s. 220.241(1).
 - All taxpayers (except June 30 year-end taxpayers) must file a declaration of estimated tax before the 1st day of the 6th month of each tax year, unless required to file later pursuant to s. 220.241(1).
- For tax years 2026 and beyond:
 - Due Date
 - All partnership returns (except June 30 year-end taxpayers) must be filed on or before the 4th month after the year-end
 - All C-corporation returns (except June 30 year-end taxpayers) must be filed on or before the 5th month after the year-end, or the 15th day following the federal due date
 - All June 30 year-end taxpayer returns must be filed on or before the 1st day of the 4th month after the year-end, or the 15th day following the federal due date
 - Extension Due Date
 - If the taxpayer received a federal extension, the Florida due date is the expiration of 6 months from the original due date.
 - Estimated Tax Due Date
 - All taxpayers must file a declaration of estimated tax before the 1st day of the 6th month of each tax year, unless required to file later pursuant to s. 220.241(1).

⁶⁷ Chs. 2009-132, 2011-229 and 2013-40, Laws of Fla.

The following chart summarizes the changes to the Florida due dates (and extension due dates) for C-corporations under current law and upon this bill becoming law.

Florida Due Dates			
Tax Year End	Current Law (extension due date in parentheses)	Upon Bill Becoming Law (tax year 2016- 2025) (extension due date in parentheses)	Upon Bill Becoming Law (tax years 2026- beyond) (extension due date in parentheses)
January 31	May 1 (November 1)	June 1 (November 1)	June 1 (November 1)
February 28	June 1 (December 1)	July 1 (December 1)	July 1 (December 1)
March 31	July 1 (January 1)	August 1 (January 1)	August 1 (January 1)
April 30	August 1 (February 1)	September 1 (February 1)	September 1 (February 1)
May 31	September 1 (March 1)	October 1 (March 1)	October 1 (March 1)
June 30 ⁶⁸	October 1 (April 1)	October 1 (May 1)	October 1 (April 1)
July 31	November 1 (May 1)	December 1 (May 1)	December 1 (May 1)
August 31	December 1 (June 1)	January 1 (June 1)	January 1 (June 1)
September 30	January 1 (July 1)	February 1 (July 1)	February 1 (July 1)
October 31	February 1 (August 1)	March 1 (August 1)	March 1 (August 1)
November 30	March 1 (September 1)	April 1 (September 1)	April 1 (September 1)
December 31 ⁶⁹	April 1 (October 1)	May 1 (October 1)	May 1 (October 1)

Documentary Stamp Tax

Affordable Housing

Current Situation

Each county in Florida may create by ordinance a Housing Finance Authority (HFA) of the county to carry out the powers granted by the Florida Housing Finance Authority Law.⁷⁰ An HFA is composed of not less than five uncompensated members appointed by the governing body of the county.⁷¹ The powers of a HFA are vested in the members and include the power to loan funds to persons purchasing homes and to developers engaged in qualifying housing developments. HFAs may also issue revenue bonds and refunding bonds in order to finance activities allowed under statute. Persons are eligible for loans if their annual income does not exceed 80 percent of the median income for the county. The sale price on new or existing single-family homes shall not exceed 90 percent of the median area purchase price in the area.⁷²

Section 159.621, F.S., provides that the following are exempt from all taxation:

- Bonds issued by a housing finance authority pursuant to Part IV of Chapter 159, F.S.;

⁶⁸ 3.3 percent of return filers in Florida use a December 31 year –end, which represents 3.6 percent of the corporate income tax liability.

⁶⁹ 84 percent of return filers in Florida use a December 31 year –end, which represents 74.5 percent of the corporate income tax liability.

⁷⁰ Section 159.604, F.S.

⁷¹ Section 159.605, F.S.

⁷² Section 159.608, F.S.

- All notes, mortgages, security agreements, letters of credit, or other instruments that arise out of, or are given to secure, the repayment of bonds issued in connection with the financing of any housing development under this part; and
- Interest thereon and the income therefrom.

The exemption is not applicable to any tax imposed by chapter 220 on interest, income or profits on debt obligations owned by corporations.

Proposed Changes

The bill exempts from taxation any note or mortgage given with respect to a loan made by or on behalf of a housing finance authority pursuant to 159.608(8). It also adds that the exemption shall not apply to any deed granted in connection with property financed pursuant to Part IV of Chapter 159, F.S. The bill also requires certain documentation be recorded with the mortgages, affirming the exempt circumstances.

Coverage of Debt Service

Current Situation

All documentary stamp tax revenues, except those which are transferred to the Land Acquisition Trust Fund in compliance with the Florida Constitution, are subject to an 8 percent service charge,⁷³ which is transferred to the General Revenue Fund.⁷⁴ Additionally, the Department of Revenue is permitted to deduct the amount necessary to pay for the cost it incurs in collecting the revenues (typically around \$9.8 million per year).

Section 201.15, F.S., provides, however, that all documentary stamp tax revenues collected, including the amounts which otherwise would make up the General Revenue service charge and the cost of collection, are pledged to pay debt service on bonds issued pursuant to ss. 215.618 and 215.619, or any other bonds issued on parity with such bonds. In the event that documentary stamp tax revenues are insufficient to pay for debt service, the cost of collection, and the General Revenue service charge, the funds which would make up the service charge and cost of collection are transferred as necessary to pay debt service. These provisions apply to bonds authorized before January 1, 2015 and secured by revenues collected pursuant to s. 201.15, F.S..

Proposed Changes

The bill provides that the funds which would otherwise be used for the General Revenue surcharge and cost of collection shall be made available under certain circumstances for payment of debt service on bonds authorized before January 1, 2017, instead of on bonds authorized before January 1, 2015, as under current law.

Aviation Fuel Taxes

Current Situation

Aviation Fuel, Kerosene, and Aviation Gasoline Taxes

⁷³ Section 201.15, F.S.

⁷⁴ Section 215.20(1), F.S.

Florida law imposes an excise tax of 6.9 cents on every gallon of aviation fuel sold in the state or brought into the state for use and a tax of 6.9 cents on each gallon of kerosene and aviation gasoline sold or brought into the state for use in an aircraft.⁷⁵

Florida law defines aviation fuel, kerosene, and aviation gasoline as follows:

- Aviation fuel means “fuel for use in aircraft, and includes aviation gasoline and aviation turbine fuels and kerosene, as determined by the American Society for Testing Materials specifications D-910 or D-1655 or current specifications.”⁷⁶
- Kerosene means “all aviation turbine fuels and any distillate known as diesel #1, K-1, or any product suitable for use as a substitute for kerosene not taxed as a diesel fuel under Ch. 206, Part II, F.S. Any kerosene meeting the definition of diesel under s. 206.86(1) is taxed under Ch. 206, Part II, F.S.”⁷⁷ When kerosene is used for aviation fuel, it is awarded the same tax treatment as aviation fuel.⁷⁸
- Aviation gasoline means “any motor fuel blended or produced specifically for use in aircraft which has been dyed in accordance with federal regulations. Aviation gasoline does not include any such fuel used in any manner other than being placed in the storage tank of an aircraft.”⁷⁹

Florida Aviation Fuel Tax Exemption

Despite Florida’s tax on aviation fuel, Florida law also provides for a refund or credit of the aviation fuel tax paid as follows:

Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, increases the air carrier’s Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid.⁸⁰

Any employees that existed before January 1, 1996, are not counted toward reaching the employment threshold, and the wholesaler or terminal supplier can only receive the credit or refund if the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored.⁸¹ Further, if before July 1, 2001, the number of full-time equivalent employee positions created or added to the air carrier’s Florida workforce fell below the additional 250, the exemption granted would cease to apply as long as the number of employees remains below the additional 250.⁸²

Accordingly, any air carrier offering transcontinental jet service that is able to meet the employment and other criteria described above, is exempt from paying aviation fuel tax.⁸³ Such qualifying air carriers can purchase aviation fuel from a wholesaler or terminal supplier without having to pay the wholesaler or terminal supplier tax on the fuel.⁸⁴ The wholesaler or terminal supplier, in turn, receives a credit or

⁷⁵ See section 206.9825, F.S. (The administration of kerosene taxes and aviation gasoline taxes differ from aviation fuel. 206.9825(2)-(3), F.S.)

⁷⁶ Section 206.9815, F.S.

⁷⁷ *Id.*

⁷⁸ See s. 206.9825, F.S.

⁷⁹ Section 206.9815, F.S.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

refund on the tax amount that it would otherwise have passed along to the air carrier as a result of its tax payment due on the sale of the fuel or tax amount previously paid.⁸⁵

The Legislature first established the aviation fuel tax credit in 1996⁸⁶ to attract new airlines to Florida. The provisions of the original fuel tax credit expired on July 1, 2001; however, following the events of September 11, 2001, the 2002 Legislature decided to reenact the tax credit policy and did so without providing for an expiration date.⁸⁷

The following chart illustrates data relating to the aviation fuel tax from June 2013, through July 2014.⁸⁸

Sales of Aviation Fuel to Commercial Air Carriers (2014/2015)			
Carrier	Sum of Gallons	% of Total Sales	Tax Due (Includes Tax Exempt Disbursements)
American Airlines	298,649,092	33.42%	\$20,606,787.35
Delta Airlines, Inc.	129,635,299	14.51%	\$8,944,835.63
JetBlue Airways	113,293,136	12.68%	\$7,817,226.38
Southwest Airlines	108,026,647	12.09%	\$7,453,838.64
Continental Airlines, Inc.	72,505,569	8.11%	\$5,002,884.26
Allegiant Air LLC	49,966,012	5.59%	\$3,447,654.83
Spirit Airlines, Inc.	41,414,492	4.63%	\$2,857,599.95
US Airways, Inc.	34,688,081	3.88%	\$2,393,477.59
Federal Express	18,187,079	2.04%	\$1,254,908.45
Frontier Airlines	5,568,293	0.62%	\$384,212.22
Silver Airways Corp.	3,984,321	0.45%	\$274,918.15
DHL Express (USA)	3,578,371	0.40%	\$246,907.60
Virgin America, Inc.	3,425,117	0.38%	\$236,333.07
National Jets, Inc.	3,096,216	0.35%	\$213,638.90
United Parcel	2,725,184	0.30%	\$188,037.70
Envoy Air, Inc.	1,675,693	0.19%	\$115,622.82
AirTran Airways, Inc.	1,398,434	0.16%	\$96,491.95
Miami Air	1,038,493	0.12%	\$71,656.02
United Airlines, Inc.	343,751	0.04%	\$23,718.82
Atlas Air, Inc.	298,737	0.03%	\$20,612.85
ABX Air, Inc.	69,280	0.01%	\$4,780.32
TEM Enterprises, Inc.	57,719	0.01%	\$3,982.61
AmeriJet	53,518	0.01%	\$3,692.74

⁸⁵ See s. 206.9825(1)(a), F.S.

⁸⁶ Section 21, Ch. 96-323, Laws of Fla

⁸⁷ See s. 5, Ch. 2002-2, Laws of Fla

⁸⁸ The Department of Revenue provided the data in this chart to the Economic Development and Tourism Subcommittee via e-mail on November 24, 2015 (which e-mail is on file with staff). The data does not include sales from fixed based operators or jobbers to commercial air carriers, fuel sold for export, or bulk sales in the terminal. Further, all returns have not been processed through June 2015, and sales reported on unworked returns are not included. Lastly, tax due does not include reduction due to collection allowance.

Presidential	14,277	0.00%	\$985.11
Reva, Inc.	10,337	0.00%	\$713.25
Professional	5,018	0.00%	\$346.24
Grand Total	29,632	100.00%	\$2,044.60

Proposed Changes

First, the bill amends s. 206.9825, F.S., limiting carriers that qualify for the aviation fuel tax exemption to those that increased their Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions between January 1, 1996 and July 1, 2016.

Then, beginning July 1, 2019, the bill repeals the aviation fuel tax exemption altogether and reduces the aviation fuel, kerosene, and aviation gasoline tax rates from 6.9 cents per gallon to 4.27 cents per gallon. The combination of the exemption repeal and tax rate cut is expected to be neutral with respect to total aviation fuel tax collections on a recurring basis.

The bill provides an effective date of July 1, 2016. However, as stated above, the removal of the aviation fuel tax exemption and reduction in tax rates would not be effective until July 1, 2019.

Alcohol and Tobacco Related Taxes and Fees

Taxation of Wine and Cider

Current Situation

Chapter 564 of Florida Statute governs the regulation and taxation of wine and cider. Wine is defined as any beverage made from fresh fruits, berries, or grapes by natural fermentation, including sparkling wines, champagnes, vermouths, and wines fermented with brandy. Wine coolers and other similar beverages are also included.

The tax rates on wines are as follows:

- For wines, other than natural sparkling wines, cider, and malt beverages, containing between 0.5 and 17.259 percent alcohol by volume, \$2.25 per gallon;
- For wines other than natural sparkling wines containing greater than 17.259% alcohol by volume, \$3 per gallon;
- For natural sparkling wines, \$3.50 per gallon;
- For ciders, which are made from the fermentation of apples and contain between 0.5 and 7 percent alcohol by volume, \$0.89 per gallon; and
- For wine coolers and similar beverages, \$2.25 per gallon.

Proposed Changes

The bill amends the definition of cider to include cider made from pears. Consequently, cider made from pears would be taxed at a rate of \$0.89 per gallon as opposed to the current rate of \$2.25 per gallon.

Cruise Lines

Current Situation

Cruise Lines must pay beverage tax and cigarette tax for products sold to passengers while in Florida – i.e. while the ship is at port and while the ship is in Florida waters.

Section 565.02, F.S., establishes requirements for licensing and selling alcoholic beverages for passenger vessels engaged exclusively in foreign commerce which have a cabin-berth capacity for at least 75 passengers. Passenger vessels may sell alcoholic beverages for consumption on board only:

- During a period not in excess of 24 hours prior to departure while the vessel is moored at a dock or wharf in a port in Florida;
- At any time while the vessel is located in Florida territorial waters and is in transit to or from international waters.

The permittee must pay to the state an excise tax for beverages sold pursuant to this section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed manufacturer or distributor.

The Department of Business & Professional Regulation (DBPR) has promulgated a rule applying this taxation framework to the sale of tobacco.⁸⁹

Two percent of excise taxes on alcoholic beverages are deposited into the Alcoholic Beverage and Tobacco Trust Fund to fund the Department of Division of Alcoholic Beverage and Tobacco's operations. The remainder of the revenues are deposited into the General Revenue Fund.⁹⁰ Revenues collected from the surcharge on cigarettes are deposited into the Health Care Trust Fund in the Agency for Health Care Administration,⁹¹ and are subject to an 8 percent General Revenue surcharge.⁹² After deducting the 8 percent General Revenue surcharge and depositing 0.9 percent into the Alcoholic Beverage and Tobacco Trust Fund, remaining revenues collected from the excise tax on cigarettes are distributed as follows⁹³:

- 2.9 percent to the Revenue Sharing Trust Fund for Counties;
- 29.3 percent to the Public Medical Assistance Trust Fund;
- 4.04 percent to the H. Lee Moffitt Cancer Center and Research Institute;
- 1 percent to the Biomedical Research Trust Fund; and
- The remainder to the General Revenue Fund

After deduction of the General Revenue Service Charge, revenues collected from the surcharge on other tobacco products are deposited into the Health Care Trust Fund.⁹⁴ The tax on other tobacco products is deposited into the General Revenue Fund.⁹⁵

Proposed Changes

The bill replaces the beverage and tobacco taxes that cruise lines currently pay with a new tax based on ship capacity and the number of times a ship embarks from Florida rather than volume of alcohol or tobacco sold at port.

Specifically, the excise tax due will be an amount equal to a base rate multiplied by the permittee's quarterly capacity during the calendar quarter. The base rate will be calculated by DBPR based on data provided by permit holders, and will be an amount equal to total alcoholic beverage and tobacco-related taxes and surcharges paid by all permit holders between January 1 and December 31, 2015, divided by the sum of the annual capacities of all permitted vessels. Annual capacity is an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a

⁸⁹ 61A-10.010, F.A.C.

⁹⁰ Section 561.121, F.S.

⁹¹ Section 210.011, F.S.

⁹² Section 215.20, F.S.

⁹³ Section 210.20, F.S.

⁹⁴ Section 210.276, F.S.

⁹⁵ Section 210.70, F.S.

calendar year. The quarterly capacity is an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter. A lower berth is a bed which is:

- Affixed to a vessel;
- Not located above another bed in the same cabin; and
- Located in a cabin not in use by employees.

An embarkation is an instance where a vessel departs from a port in Florida.

The new tax will be paid quarterly by each permit holder, less any tax already paid by a licensed manufacturer or distributor pursuant to the Beverage Law or tobacco tax statutes. Each permit holder must report the annual capacity for each of its vessels to the DBPR by August 1, 2016. The department must calculate the base rate by September 1, 2016 and report it to each permit holder.

The revenues from the replacement tax will be distributed in the same manner as taxes on alcoholic beverages under current law.

Other Tobacco Products

Current Situation

Other Tobacco Products (OTP) are defined in s. 210.25(11), F.S., and include items such as pipe tobacco, chewing tobacco, hookah tobacco, and dipping tobacco. Wholesale sales price is defined in s. 210.25(13), F.S., as the established price for which a manufacturer sells a tobacco product to a distributor, exclusive of any diminution by volume or other discounts.

On several occasions in recent years, the department has been faced with litigation regarding the definition of wholesale sales price. For example, the wholesale sales price for the same product can vary depending on if an American manufacturer or an overseas manufacturer is selling the product to a distributor because the Federal Excise Tax is paid at different times during the process. The wholesale sales price for the transaction with the American manufacturer includes Federal Excise Tax, whereas the wholesale sales price for the overseas manufacturer does not.⁹⁶

The OTP tax is 25% of the wholesale sales price and is deposited to General Revenue (GR). The OTP Surcharge is 60% of the wholesale sales price and is deposited to the Health Care Trust Fund, after deducting the 8% GR Service Charge.

Proposed Changes

The bill amends s. 210.25, F.S., to clarify the definitions related to tobacco products other than cigarettes and cigars. In effect, the bill codifies the division's current administration of these laws with respect to domestically-manufactured products, and provides that the wholesale sales price for imported products must include the federal excise tax regardless of who first paid that excise tax.

The bill amends the definition of "tobacco products" to definitively include loose tobacco and all other kinds and forms of products made in whole or in part from tobacco leaves for use in chewing or sniffing.

The bill redefines "wholesale sales price" as the total amount paid by the distributor to obtain tobacco products. It is defined as the sum of:

- The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, cost of labor and service, charge for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on

⁹⁶ *Micjo, Inc. v. Dep't of Bus. & Prof'l Regulation, Div. of Alcoholic Beverages & Tobacco*, 78 So. 3d 124 (Fla. Dist. Ct. App. 2012)

the invoice paid by the distributor, exclusive of any diminution by volume or other discounts, including a discount extended to a distributor by an affiliate; and

- The federal excise tax paid by the distributor on the tobacco products, if the excise tax is not included in the full price under paragraph (a).

The bill defines “affiliate” to mean “a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor.” This will ensure that the price on which the excise tax is based is not diminished by a discount resulting from an affiliation between the distributor and another entity.

Property Taxation in Florida

Local governments, including counties, school districts, and municipalities have the constitutional ability to levy ad valorem taxes. Special districts may also be given this ability by law.⁹⁷ Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.⁹⁸ However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit – not variations in rates between taxing units.⁹⁹

Federal, state, and county governments are immune from taxation but municipalities are not subdivisions of the state and may be subject to taxation absent an express exemption.¹⁰⁰ The Florida Constitution grants property tax relief in the form of certain valuation differentials,¹⁰¹ assessment limitations,¹⁰² and exemptions,¹⁰³ including the exemptions relating to municipalities and exemptions for educational, literary, scientific, religious or charitable purposes.

Disabled Veteran Exemption Transfer

Current Situation

The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.¹⁰⁴

⁹⁷ FLA. CONST. art VII, s. 9,

⁹⁸ FLA. CONST. art VII, s. 2.

⁹⁹ See, for example, *Moore v. Palm Beach County*, 731 So. 2d 754 (Fla. 4th DCA 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (1940).

¹⁰⁰ “Exemption” presupposes the existence of a power to tax, while “immunity” implies the absence of it. See *Turner v. Florida State Fair Authority*, 974 So. 2d 470 (Fla. 2d DCA 2008); *Dept. of Revenue v. Gainesville*, 918 So. 2d 250, 257-59 (Fla. 2005).

¹⁰¹ FLA. CONST. art VII, s. 4, authorizes valuation differentials, which are based on character or use of property.

¹⁰² FLA. CONST. art VII, s. 4(c), authorizes the “Save Our Homes” property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. S. 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the “Granny Flats” assessment limitation.

¹⁰³ FLA. CONST. art VII, s. 3, provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

¹⁰⁴ Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. The terms “land,” “real estate,” “realty,” and “real property” may be used interchangeably. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII,

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a homestead tax exemption.¹⁰⁵

Article VII, section 3(b) of the Florida Constitution provides for exemption from property taxes for persons who are totally and permanently disabled. The Legislature implemented this provision through various property tax exemptions in chapter 196, Florida Statutes, including s. 196.081(1)-(3), F.S.¹⁰⁶ These subsections provide a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably discharged veteran with a service-connected total and permanent disability and is a permanent Florida resident on January 1 of the tax year for which the exemption is being claimed or in which the veteran died.¹⁰⁷

Eligibility for all homestead exemptions, including the exemption in s. 196.081, is measured on January 1 of the applicable tax year.¹⁰⁸ If a property that received an exemption is sold after January 1, the exemption remains the property for the remainder of the year. In the subsequent year, any exemption will be based on the new owner's qualification on January 1 of that year.

Proposed Changes

The bill provides that a veteran who received the s. 196.081 exemption but moves his or her homestead to another property after January 1 of the same year, may transfer the exemption to the new property if:

- The new property is owned and used as a homestead,
- The veteran files with the property appraiser an application for exemption of the new property within 30 days of acquisition of the new property, but no later than the 25th day following the mailing by the property appraiser of the TRIM notice, and
- The application must list and describe both the previous homestead and the new property, and certify under oath that the veteran:
 - is otherwise qualified to receive the exemption under s. 196.031,
 - holds legal title to the new property, and
 - intends to use the new property as his or her homestead.

The qualification deadline for all homestead exemptions, except applications for exemption under this proposal, will remain January 1.

If the exemption is granted on the new homestead, the previous homestead may not receive the exemption in that tax year, unless the subsequent owner of the previous homestead is qualified to receive the exemption.

Exemptions for Surviving Spouses of Veterans

Current Situation

Totally and Permanently Disabled Veterans/Surviving Spouses

Article VII, section 3(b) of the Florida Constitution authorizes the Legislature by general law to provide, in part, a property tax exemption in an amount not less than \$500 for every widow or widower, and for persons who are permanently disabled. The Legislature implemented this provision through s. 196.081(1)-(3), F.S. These subsections currently provide a full exemption from ad valorem taxes on

section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

¹⁰⁵ An additional homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

¹⁰⁶ Ch. 2012-193, Laws of Fla.

¹⁰⁷ Section 196.081(1), F.S.

¹⁰⁸ Section 196.011(1)(a), F.S.; see also s. 196.031(1)(a), F.S.

property that is owned and used as a homestead by an honorably discharged veteran with a service-connected total and permanent disability and is a permanent Florida resident on January 1 of the tax year for which the exemption is being claimed or in which the veteran died.¹⁰⁹ This exemption may be carried over to the benefit of the veteran's surviving spouse.¹¹⁰ If the deceased veteran does not meet these criteria, the surviving spouse is not eligible for the carry-over of the homestead tax exemption.

If the surviving spouse sells the property, an exemption equal to the amount of the most recent exemption may be transferred to the new primary residence if the surviving spouse remains unmarried.¹¹¹

Veterans Who Died from Service-connected Causes While on Active duty/Surviving Spouses

Article VII, section 6(f) of the Florida Constitution authorizes the Legislature to provide ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces. The Legislature implemented this provision through s. 196.081(4), F.S.

This subsection provides a full property tax exemption on property that is owned and used as a homestead by the surviving spouse of veteran who died from service-connected causes while on active duty and is a permanent Florida resident on January 1 of the tax year for which the veteran died.¹¹² If the surviving spouse does not meet these criteria, the surviving spouse is not eligible to receive the homestead tax exemption.

If the surviving spouse sells the property, an exemption equal to the amount of the most recent exemption may be transferred to the new primary residence if the surviving spouse remains unmarried.¹¹³

Portability

While current law allows the surviving spouse of a disabled veteran to transfer the veteran's disability exemption to a new property if they are moving within Florida, this portability is not available to a surviving spouse who is coming from another state. In other words, if a surviving spouse owned a permanent residence in another state and was receiving an exemption or similar benefit based on their veteran spouse's disability, they could not transfer that benefit to a new Florida residence. However, a similarly situated surviving spouse who was moving within Florida would be able to transfer their benefit.

Proposed Changes

The bill expands the eligibility of surviving spouses of disabled veterans for the current law veteran homestead exemptions. Specifically, the bill amends s. 196.081(4), F.S., to allow the surviving spouse of a veteran who died from service-connected causes while on active duty to receive property tax relief in this state, regardless of the veteran's state of residence on January 1 of the year in which the veteran died.

In addition, the bill amends s. 196.081, F.S., to allow the surviving spouse of a veteran who had a service-related total and permanent disability at the time of death to receive property tax relief in this state, if at the time of the veteran's death, the veteran or the veteran's spouse owned the veteran's homestead property in another state and such property would have qualified as a homestead in Florida if located in this state on January 1 of the year the veteran died. To qualify for the tax exemption, after

¹⁰⁹ Section 196.081(1), F.S.

¹¹⁰ Section 196.081(2) and (3), F.S.

¹¹¹ Section 196.081(3), F.S.

¹¹² Section 196.081(4), F.S.

¹¹³ Section 196.081(4)(b), F.S.

the veteran's death, the unremarried surviving spouse must hold the legal or beneficial title to homestead property in this state and permanently reside on the property¹¹⁴ as of January 1 of the tax year for which the exemption is being claimed. Additionally, the surviving spouse must provide the county property appraiser with documentation that verifies the partial or full homestead exemption that applied to the veteran's property in the other state and any prima facie evidence that the surviving spouse is entitled to the exemption. The tax exemption may be transferred to a new residence, in an amount not to exceed the amount granted from the most recent ad valorem tax roll, as long as it is used as the surviving spouse's primary residence and he or she does not remarry.

Ad Valorem: Affordable Housing Agreements

Current Situation

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,¹¹⁵ and it provides for specified assessment limitations, property classifications and exemptions.¹¹⁶ Such exemptions include, but are not limited to, exemptions for such portions of property used predominately for educational, literary, scientific, religious or charitable purposes.¹¹⁷ In 1999,¹¹⁸ the Legislature authorized a property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption. The property must be owned entirely by a not for profit corporation, used to provide affordable housing through any state housing program under ch. 420, F.S., and serving low-income and very-low-income persons.¹¹⁹ In order to qualify for the exemption, the property must comply with ss. 196.195 for determining non-profit status of the property owner and s. 196.196 for determining exempt status of the use of the property. In determining whether an applicant is a nonprofit or profit-making venture, s. 196.195 outlines the statutory criteria that a property appraiser must consider.¹²⁰ The applicant must show that "no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose."¹²¹

In determining whether the use of a property qualifies as charitable, s. 196.196 requires the property appraiser to consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.¹²²

Proposed Changes

The bill provides that certain property used to provide affordable housing will be considered a charitable purpose and qualify for a 50 percent property tax discount, notwithstanding the requirements of ss. 196.195 and 196.196.

In order to qualify for the discount, the property must:

- be used to provide affordable housing to natural persons or families meeting the extremely low, very low, or low-income limits specified in s. 420.0004, F.S.;

¹¹⁴ See section 196.031, F.S.

¹¹⁵ Fla. Const., art. VII, s. 4.

¹¹⁶ Fla. Const., art. VII, ss. 3, 4, and 6.

¹¹⁷ Fla. Const., art. VII, s. 3.

¹¹⁸ Section 15, ch. 99-378, L.O.F., codified at s. 196.1978, F.S.

¹¹⁹ The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. See 26 U.S.C. § 501(c)(3) ("charitable purposes" include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).

¹²⁰ s. 196.195, F.S.,

¹²¹ s. 196.195(3), F.S.

¹²² s. 196.196(1)(a)-(b), F.S.

- be in a multifamily project in which at least 70 units are providing affordable housing to the above group, and which is subject to an agreement with the Florida Housing Finance Corporation to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.

The discount will begin in the sixteenth year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount will terminate when the property is no longer serving extremely low, very low, or low-income persons pursuant to the recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities and tax rates being set in the annual local government budgeting process.

Economic Development Exemption

Current 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 or expansion of an existing 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. The referendum can take one of two forms, as selected by the local government conducting the referendum. It can either authorize the city or county to grant such exemptions anywhere within its jurisdiction, or only in areas designated as enterprise zones or brownfield areas. 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 approval by motion or resolution of the local governing body, subject to ordinance adoption, or on or 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. Once granted, the exemptions remain in effect for up to 10 years with respect to any particular facility, regardless of any change in the authority of the county or municipality to grant such exemption.

Section 196.012, F.S., provides definitions for use in the above exemption. "New business" may include any business or organization located in an enterprise zone or brownfield area that first begins operation there. "Expansion of an existing business" includes any business or organization located in an enterprise zone or brownfield area that increases operations there.

The enterprise zone program expired on December 31, 2015, causing some uncertainty about whether the exemption can be granted to a business in an expired enterprise zone area if the city or county began the process of seeking authorization prior to December 31, 2015, or if exemptions have already been granted within 10 years of the expiration of the enterprise zone program.

Proposed Changes

The bill modifies the definitions of "new business" and "expansion of an existing business" and clarifies that the exemption may be granted to a new or expanding business located in an area which was designated as an enterprise zone as of December 30, 2015, but not a brownfield area, only if the new or expanding business was approved by motion or resolution of the local governing body, subject to ordinance adoption, or by ordinance prior to December 31, 2015. The bill also clarifies that exemptions already granted prior to expiration of the enterprise zone program may continue for up to 10 years regardless of expiration of the enterprise zone program.

Aerial Photographs

Current Situation

Under Florida law, local property appraisers are responsible for developing the assessment (tax) roll within their jurisdiction.¹²³ Property appraisers are required to physically inspect property in their jurisdiction at least once every five years, but they may use “image technology” in lieu of physical inspection to ensure that the tax roll meets all the requirements of law.¹²⁴ DOR is required to establish minimum standards for the use of image technology consistent with standards developed by professionally recognized sources for mass appraisal of real property.¹²⁵

DOR coordinates the capture and distribution of ortho-imagery¹²⁶ of approximately one-third of the state each year according to the provisions of ch. 195.022, F.S. The counties rely on the use of aerial photography for discovery, location, and identification of property characteristics. In order to meet the statutory obligation of providing these photographs for the counties, DOR contracts for aerial photography services for the counties each year. At least once every three years, or upon request of any property appraiser, DOR must furnish aerial photographs and nonproperty ownership maps to the property appraisers to ensure that all real property within the state is properly listed on the roll.¹²⁷

DOR will pay for the cost of all photographs and maps to counties with populations lesser than 25,000; however, photographs and maps for counties with populations greater than 25,000 must be paid for at the property appraiser’s expense.¹²⁸

Prior to 2009, the cost of the photographs and maps was paid for by DOR. In 2008, DOR’s financial responsibility to provide the photos and maps was limited to counties with a population less than 25,000.¹²⁹ Between 2009-2014, the Legislature provided funding for aerial photography for counties with a population of less than 50,000 via specific proviso language in the General Appropriations Act.

Proposed Changes

The bill amends s. 195.022, F.S., to change the county population threshold that determines the governmental entity responsible for payment for aerial photographs and maps. Under the bill, DOR will pay for photographs and maps furnished to counties that meet the population thresholds of a rural community in s. 288.0656(2)(e), F.S. For counties that do not meet those population thresholds, DOR will furnish the items at the property appraiser’s expense.

Section 288.0656(2)(e), F.S., states that “rural community” means a county with a population of 75,000 or fewer or a county that has a population of 125,000 or fewer and is contiguous to a county with a population of 75,000 or fewer.

Tourist Development Taxes

Current Situation

Section 125.0104, F.S., authorizes five taxes on transient rental transactions (e.g. bookings at hotels). Depending on a county’s eligibility to levy, the maximum allowable tax rate varies from a four to six percent. One of the levies requires voter approval, others may be authorized by vote of the county’s governing authority or referendum approval. The revenues generated by the tax may be used in various

¹²³ Sections 193.023(1) and 193.114, F.S.

¹²⁴ Section 193.023(2), F.S.

¹²⁵ *Id.*

¹²⁶ According to DOR, an “orthophoto” is a photographic copy, prepared from a perspective photograph, in which displacements of images due to tilt and relief have been removed. See Department of Revenue, Aerial Photography Contract, available at <http://dor.myflorida.com/dor/property/gis/> (last viewed January 26, 2016).

¹²⁷ Section 195.022, F.S.

¹²⁸ *Id.*

¹²⁹ Ch. 2008-138, Laws of Fla. (HB 5061)

ways to promote tourism, including capital construction of tourism-related facilities. The authorized uses of each local option tax vary according to the particular levy.

The tourist development tax ("1 to 2 Percent Tax") may be levied at the rate of one or two percent. All 67 counties are eligible to levy this tax, and currently 62 levy this tax – all at two percent. Calhoun, Hardee, Lafayette, Liberty and Union counties do not levy any tourist development taxes. Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.

An additional tourist development tax of one percent ("Additional 1 Percent Tax") may be levied by counties who have previously levied a tourist development tax at the one or two percent rate for at least three years. Currently 45 counties levy this tax. Revenue from this tax may be bonded to finance certain facilities and projects, but may not be used to service debt or refinance facilities receiving funding from a previously levied tourist development tax unless approved by an extraordinary vote of the governing board. This tax may be levied by either extraordinary vote of the county governing board or by approval by a majority of voters in a referendum.

The other taxes authorized by this section include the professional sports franchise facility tax, the additional professional sports franchise facility tax, and the high tourism impact tax. These taxes are applied to the same transactions as the tourist development taxes.

The 1 to 2 Percent Tax and the Additional 1 Percent taxes can be used to fund a wide variety of tourist-related facilities including convention centers, stadiums, aquariums, museums, zoos, tourist information centers & bureaus, and beach facilities and maintenance. Additionally all five taxes authorized by this section may be used to promote and advertise tourism in this state nationally and internationally. If revenues are expended for an activity, service, venue, or event it must have attraction of tourists as one of its main purposes, as evidenced by promotion of the activity, service, venue, or event to tourists. Because of the statutory location and phrasing of this requirement, it may allow for broad interpretation of allowable expenditures.

Prior to levying the tourist development tax, the county must establish a 9-member tourist development council. The council's responsibilities include advising the governing body of the county on effective use of tourist development tax revenues, proposing a plan for the use of such revenues, reviewing expenditures of the revenues and reporting any suspected unauthorized expenditures to the county governing board and the Department of Revenue.

Proposed Changes

The bill requires that a minimum of 35% of tourist development tax revenues which are left over after making required bond payments be used to fund promotion and advertising of tourism in the state. It also allows, in coastal counties only, up to 10% of remaining tourist development tax revenues to be used to fund additional emergency medical and law enforcement services that are required as a result of tourism, as long as such funds are not used to supplant pre-existing expenditures on such services..

The bill adds a requirement that a written application must be submitted to the governing body of the county in order to propose an expenditure of tourist development tax revenues. Each governing body is allowed to determine the requirements for the application, but it must including a description of the proposed expenditure and estimate of the cost at a minimum. The bill requires that a return on investment analysis or cost-benefit analysis must be performed before a county may make any expenditure of tourist development tax revenues in excess of \$100,000. The analysis must be performed by an individual who has prior experience with input-output modelling, cost-benefit analysis or the application of economic multipliers such as the Regional Input-Output Modelling System created by the Bureau of Economic Analysis within the United States Department of Commerce. The cost of the analysis is to be paid from the tourist development tax revenues.

The bill creates an additional means of enforcing the allowed uses of tourist development tax. Any remitter of the tax, or any organization representing multiple remitters of the tax, in an action filed pursuant to Ch. 120, F.S., (The Administrative Procedure Act), may challenge a county's decision to devote such tax revenues to a particular use or uses that the challenger claims is contrary to uses allowed by law. During the pendency of the administrative proceeding and any resulting appeals, no tourist development tax revenues may be used to fund the challenged use or uses. No deference is to be afforded the county's interpretation of statute. A prevailing remitter or remitter organization shall be awarded the reasonable costs of the action plus reasonable attorney's fees.

Community Redevelopment Agencies

Current Situation

The Community Redevelopment Act of 1969, Ch. 163, Part II, F.S. (Act), was enacted to provide a mechanism to revitalize slum and blighted areas "which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state." The Act authorizes each local government to establish one Community Redevelopment Agency (CRA) to revitalize designated slum and blighted areas upon a "finding of necessity" and a further finding of a "need for a CRA to carry out community redevelopment." During the last two decades, municipalities, and to a lesser extent counties, have increasingly relied upon CRAs as a mechanism for community redevelopment.

CRAs are funded primarily through tax increment financing (TIF). As property tax values in the redevelopment area rise above property values in the base year the redevelopment area was created, increment revenues are generated by applying the current millage rate levied by each taxing authority in the area to the increase in value. Each non-exempt taxing authority that levies taxes on property within a community redevelopment area must annually appropriate the amount of increment revenues to the CRA trust fund. Expenditures are made pursuant to a community redevelopment plan approved by the governing body of the general purpose government that created the agency. Section 163.387(6), F.S., provides a list of allowable uses for funds from the Redevelopment Trust Fund, including administrative expenses, planning expenses, the purchase of real property, payment of bonds and other debt, redevelopment expenses, relocation of residents affected by redevelopment, development of affordable housing, and community policing expenses.

Proposed Changes

The bill requires any CRA which serves an area where at least 50% of children aged 18 and younger live below the poverty line to spend at least 5% of Redevelopment Trust Fund revenues annually to support youth centers, if a youth center has submitted a written request for such support and the expenditure does not materially impair any bonds outstanding as of March 11, 2016. "Youth center" is defined as a facility owned and operated by a government entity or a corporation not for profit registered pursuant to chapter 617, F.S., the primary purpose of which is to provide educational programs, after school activities, counseling, and other services to children aged 5 to 18 years, and which has operated for a period no less than two years prior to requesting support from the community redevelopment agency. The term does not include public or private schools, child care facilities as defined in s. 402.302, F.S., or private prekindergarten providers as defined in s. 1002.51, F.S., but does include indoor recreational facilities as defined in s. 402.302, F.S. which are owned and operated by a government entity or corporation not for profit registered pursuant to chapter 617, F.S.

B. SECTION DIRECTORY:

Section 1. Amends ss. 125.0104(3) and (5), F.S., relating to tourist development taxes, to add new allowable and required uses, and new requirements for proposed expenditures, and provides a civil cause of action for unauthorized expenditures..

- Section 2. Amends s. 159.621, F.S., to add certain notes or mortgages to a documentary stamp tax exemption.
- Section 3. Amends s. 163.387(6), F.S., to add a new allowable use for redevelopment trust fund revenues and requires at least 5% of these revenues be spent on youth centers in certain circumstances.
- Section 4. Amends s. 195.022, F.S., changing population thresholds for certain required aerial photography.
- Section 5. Amends s. 196.011(1), F.S., to conform to changes made by section 6 of the bill.
- Section 6. Amends s. 196.012(14) and (15), F.S., to modify the definitions of “new business” and “expansion of an existing business” to include areas designated as enterprise zones as of December 30, 2015.
- Section 7. Amends s. 196.081(1), (4), (5), (6) and (7) F.S., to allow a midyear transfer of the disabled veteran homestead exemption.
- Section 8. Amends s. 196.1978, F.S., to create a property tax discount on certain property used for charitable affordable housing.
- Section 9. Amends s. 196.1995 F.S., to clarify that economic development ad valorem tax exemptions can be granted in areas which were designated enterprise zones as of December 30, 2015.
- Section 10. Amends s. 201.15, F.S., changing a date relating to debt service coverage for certain bonds secured by documentary stamp tax.
- Section 11. Amends s. 206.9825, F.S.; to end an aviation fuel tax credit for certain aviation fuels.
- Section 12. Amends s. 206.9825, F.S., to reduce the tax rate on aviation fuel to a rate designed to make the changes by section 11 of the bill revenue neutral.
- Section 13. Amends s. 210.13, F.S., to conform to changes made by section 34 of the bill.
- Section 14. Amends s. 210.25, F.S., to clarify definitions related to other tobacco products.
- Section 15. Amends s. 212.031, F.S., to permanently reduce the business rent tax from 6% to 5%, with an additional one percentage point reduction (to 4%) in calendar year 2018.
- Section 16. Amends s. 212.04, F.S., to provide an exemption for certain resales of taxable admissions.
- Section 17. Amends s. 212.05, F.S., to clarify the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction
- Section 18. Amends s. 212.08(5) and (7), F.S., to provide sales tax exemptions for building materials, pest control, and rental of tangible personal property used in new construction in rural areas of opportunity; certain equipment, electricity and building materials used by datacenters, veterans’ organizations, and certain industrial, postharvest activity and metal recycler machinery and equipment.
- Section 19. Amends s. 220.03, F.S., to conform dates to adopt the Internal Revenue Code in effect January 1, 2016.

- Section 20. Amends s. 220.13, F.S., to “decouple” from certain federal provisions relating to bonus depreciation.
- Section 21. Specifies that changes made by sections 19 and 20 of the bill are effective upon becoming law and operate retroactively to January 1, 2016.
- Section 22. Grants DOR emergency rulemaking authority to implement sections 19 and 20 of the bill.
- Section 23. Amends s. 220.1845, F.S., to increase the total amount of contaminated site rehabilitation tax credits for one year.
- Section 24. Amends s. 220.192, F.S., to extend the renewable energy technology tax credit for one year.
- Section 25. Amends s. 220.193, F.S., to extend the renewable energy production tax credit for one year.
- Section 26. Amends s. 220.196(2), F.S., to increase the total amount of research and development tax credits for one year.
- Section 27. Creates s. 220.197, F.S., to create a corporate income tax credit pilot program to incentivize the reduction of the use of plastic bags in this state, provides eligibility criteria and definitions.
- Section 28. Amends s. 220.222, F.S., to make changes to address certain federal date filing changes.
- Section 29. Amends s. 220.241, F.S., to make changes to address certain federal date filing changes.
- Section 30. Amends s. 220.33(1), F.S., to make changes to address certain federal date filing changes.
- Section 31. Amends s. 220.34(2), F.S., to make changes to address certain federal date filing changes.
- Section 32. Amends s. 376.30781(4), F.S., to increase the total amount of tax credits for the rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas for one year.
- Section 33. Amends s. 561.121, F.S., adding certain taxes to a distribution schedule.
- Section 34. Amends s. 564.06(4), F.S., to equalize the tax rates on apple and pear cider .
- Section 35. Amends s. 565.02(9), F.S., to replace the current tax calculation on liquor and tobacco sold on cruise ships with a simpler, revenue neutral calculation..
- Section 36. Amends s. 951.22(1), F.S., to conform a reference to changes made by section 12 of this bill.
- Section 37. Provides an exemption from the sales and use tax for the retail sale of certain clothes, school supplies, and personal computers and personal computer-related accessories during a specified period; provides emergency rulemaking authority; provides an appropriation.

- Section 38. Provides an exemption from the sales and use tax for the retail sale of certain items and articles of tangible person property by certain small businesses during a specified period; provides emergency rulemaking authority; provides an appropriation.
- Section 39. Provides an exemption from the sales and use tax on the retail sale of certain firearms, ammunition for firearms, camping tents, and fishing supplies during a specified period; provides emergency rulemaking authority; provides an appropriation.
- Section 40. Provides an exemption from the sales and use tax on the retail sale of certain personal computers and personal computer-related accessories during a specified period; provides emergency rulemaking authority; provides an appropriation.
- Section 41. Provides an exemption for the sale of books and other reading materials at school book fairs for one year.
- Section 42. Provides an exemption for the sale of college textbooks and instructional materials for one year.
- Section 43. Provides an appropriation to the Department of Revenue to implement the amendments to s. 212.031, F.S., made by the bill.
- Section 44. Provides an appropriation to the Department of Revenue to pay the costs of aerial photography created by section 4 of the bill.
- Section 45. Specifies that the changes made to ss. 196.012 and 196.1995, F.S., by the bill are remedial and apply retroactively to December 31, 2015.
- Section 46. Provides Legislative finding that the act fulfills an important state interest.
- Section 47. Provides effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS below.

2. Expenditures:

The bill appropriates \$762,154 in nonrecurring General Revenue to DOR for the 2016-17 fiscal year. Also see FISCAL COMMENTS below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS below.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides for a wide range of tax reductions and modifications designed to directly impact both households and businesses. Direct economic impacts on the private sector include:

- Reductions in the business rent tax that will provide tax relief to thousands of Florida businesses that rent real property in Florida.
- Manufacturers will be able to continue to enjoy the sales tax exemption on certain industrial machinery and equipment with the permanent extension of that exemption. Certain fruit and vegetable packinghouses and metals recyclers will also now be able to make use of this sales tax exemption.
- The back to school, hunting and fishing, small business and technology sales tax holidays will provide tax relief to Florida consumers. The college textbook and book fair exemptions in the bill will provide tax relief to students and their parents.
- Certain veterans and their spouses may realize property tax savings from the provisions of the bill, while members of veteran's service organizations will see elimination of sales taxes paid on certain food and drink.
- Administrative costs for Florida's cruise industry, associated with alcoholic beverage and tobacco-related taxes will be reduced.
- Private sector providers of affordable housing will see reduced property tax burdens as long as they continue to provide affordable housing.
- Participants in the brownfield cleanup tax credit program will see more resources available to undertake those activities.

D. FISCAL COMMENTS:

The total impact of the bill in fiscal year 2016-2017 is -\$352.0 million (-\$418.2 million recurring) of which -\$300.3 million (-\$329.6 million recurring) is on General Revenue, +\$1.2 million (+\$0.4 million recurring) is on state trust funds, and -\$52.9 million (-\$89.0 million recurring) is on local government (see table below). Several measures in the bill result in further, non-recurring revenue impacts in years beyond fiscal year 2016-17, totaling -\$354.2 million, of which -\$315.0 million is on General Revenue and -\$39.2 million is on local government. The table below indicates the impacts and the years during which those impacts will occur. The total tax reductions proposed by the bill are represented by the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The total of -\$991.7 million in tax reductions proposed by the bill is the sum of -\$418.2 million (recurring), -\$219.3 million (pure nonrecurring in fiscal year 2016-17), and -\$354.2 million (pure nonrecurring after fiscal year 2016-17).

Also note that the distribution of revenues from the revised tax on alcoholic beverages and tobacco products applicable on certain cruise ships will result in an insignificant recurring gain to General Revenue and an insignificant reduction of the same amount to the Health Care Trust Fund and several other trust funds.

Appropriations Detail—The \$762,154 appropriated in the bill consists of the following: \$229,982 to implement the “back-to-school” sales tax holiday; and \$55,908 to implement the business rent tax rate changes; \$91,470 to implement the hunting and fishing sales tax holiday; \$104,937 to implement the technology sales tax holiday; and \$279,857 to pay additional costs associated with provision of aerial photography by DOR. The appropriations for the back-to-school holiday, the technology sales tax holiday, and the hunting and fishing tax holiday are to pay the cost of mailing a taxpayer information publication (TIP) to approximately 590,000, 290,000, and 264,900 sales tax dealers notifying them of the respective tax free periods. Of the appropriation for the business rent tax rate reduction, \$45,188 is for tax dealer notification and the remainder is for computer system reprogramming.

Fiscal Year 2016-17 Estimated Fiscal Impacts (millions of \$)

Issue	General Revenue		State Trust Funds		Local		Total	
	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.
<u>Sales Tax: Business Rent/1% Permanent/2% for 1 Yr</u>	(106.8)	(256.4)	(*)	(*)	(13.8)	(33.1)	(120.6)	(289.5)
<u>Sales Tax: Machinery/Equipment–Manufacturing Exemption Extension</u>	-	(59.7)	-	(*)	-	(13.4)	-	(73.1)
<u>Sales Tax: Machinery/Equipment–Fruit & Vegetable Packinghouses</u>	(0.8)	(0.9)	(*)	(*)	(0.2)	(0.2)	(1.0)	(1.1)
<u>Sales Tax: Machinery/Equipment–Metal Recyclers</u>	(1.7)	(1.7)	(*)	(*)	(0.5)	(0.5)	(2.2)	(2.2)
<u>Sales Tax: Tax Holiday/"Back-to-School"</u>	(55.9)	-	(*)	-	(12.9)	-	(68.8)	-
<u>Sales Tax: Tax Holiday/Small Business</u>	(35.0)	-	(*)	-	(8.1)	-	(43.1)	-
<u>Sales Tax: Tax Holiday/Technology</u>	(22.8)	-	(*)	-	(5.3)	-	(28.1)	-
<u>Sales Tax: Tax Holiday/Hunting and Fishing</u>	(2.6)	-	(*)	-	(0.7)	-	(3.3)	-
<u>Sales Tax: College Textbooks/1 Yr Extension</u>	(33.3)	-	(*)	-	(7.6)	-	(40.9)	-
<u>Sales Tax: Datacenters Exemption</u>	(5.7)	(8.7)	(0.1)	(0.9)	(1.4)	(2.0)	(7.2)	(11.6)
<u>Sales Tax: Admissions Resales (3 Yrs)</u>	(1.5)	-	(*)	-	(0.4)	-	(1.9)	-
<u>Sales Tax: Rural Areas of Opportunity/Bldg Materials</u>	(3.2)	-	(*)	-	(1.3)	-	(4.5)	-
<u>Sales Tax: School Book Fairs/1 Yr Exemption</u>	(2.3)	-	(*)	-	(0.5)	-	(2.8)	-
<u>Sales Tax: Veterans' Service Organizations/Food & Drink</u>	(1.2)	(1.4)	(*)	(*)	(0.2)	(0.2)	(1.4)	(1.6)
<u>Corp Inc Tax: Federal Code Conformance Issues</u>	(20.0)	(1.5)	-	-	-	-	(20.0)	(1.5)
<u>Corp Inc Tax: R&D Credits/1 Yr Increase @ 9m</u>	(4.3)	-	-	-	-	-	(4.3)	-
<u>Corp Inc Tax: Brownfield Credits/1 Yr Increase</u>	(3.0)	-	-	-	-	-	(3.0)	-
<u>Corp Inc Tax: Plastic Bag Reduction Pilot</u>	-	-	-	-	-	-	-	-
<u>Corp Inc Tax: Renewable Energy Prod Credits/1 Yr Extension</u>	-	-	-	-	-	-	-	-
<u>Corp Inc Tax: Renewable Energy Technology Credits/1 Yr Extension</u>	-	-	-	-	-	-	-	-
<u>Ad Valorem: Affordable Housing/Recorded Agreements (1)</u>	-	-	-	-	-	(37.9)	-	(37.9)
<u>Ad Valorem: Surviving Spouse/Disabled Veterans - Residency (1)</u>	-	-	-	-	-	(1.7)	-	(1.7)
<u>Ad Valorem: Disabled Vets Exemption Transferability</u>	-	-	-	-	+/-	+/-	+/-	+/-
<u>Ad Valorem: EDATE Clarification/Enterprise Zones</u>	-	-	-	-	(**)	(**)	(**)	(**)
<u>Ad Valorem: Aerial Photography (Appropriation)</u>	(0.3)	-	-	-	-	-	(0.3)	-
<u>Aviation Fuel Tax: Exemption Elimination/Rate Cut</u>	-	-	-	-	-	-	-	-
<u>Bev Tax/Tobacco Tax: Cruise Line Tax Simplification</u>	(0.1)	*	(*)	(*)	-	-	(0.1)	-
<u>Bev Tax: Pear Cider Rate Reduction</u>	(0.1)	(0.1)	-	-	-	-	(0.1)	(0.1)
<u>Doc Stamp Tax: Affordable Housing-related Notes</u>	(0.1)	(0.1)	(0.2)	(0.2)	-	-	(0.3)	(0.3)
<u>Tobacco Tax: Other Tob Prod/Definition Clarification</u>	0.9	0.9	1.5	1.5	-	-	2.4	2.4
<u>Appropriations: Tax Holidays & Admin</u>	(0.5)	-	-	-	-	-	(0.5)	-
FY 2016-17 Total	(300.3)	(329.6)	1.2	0.4	(52.9)	(89.0)	(352.0)	(418.2)

Non-recurring Impacts After FY 2016-17	Cash	Cash	Cash	Cash
<u>Sales Tax: Admissions Resales (17/18 & 18/19)</u>	(3.5)	-	-	(1.0)
<u>Sales Tax: Rural Areas of Opportunity/Bldg Materials</u>	(7.2)	-	-	(2.7)
<u>Sales Tax: Business Rent/1% for 1 yr (1/1/2018)</u>	(274.8)	-	(*)	(35.5)
<u>Corp Inc Tax: Federal Code Conformance Issues</u>	(2.8)	-	-	-
<u>Corp Inc Tax: Plastic Bag Reduction Pilot (18/19)</u>	(5.0)	-	-	-
<u>Corp Inc Tax: Renewable Energy Prod Credits (17/18)</u>	(10.0)	-	-	-
<u>Corp Inc Tax: Renewable Energy Technology Credits (17/18)</u>	(10.0)	-	-	-
<u>Corp Inc Tax: R&D Credits (17/18)</u>	(1.7)	-	-	-
Bill Total	(615.3)	(329.6)	1.2	(92.1)
Recurring + Pure Nonrecurring (2) =				(991.7)

(*) Impact less than \$50,000; (**) Impact is indeterminate.

(+/-) Indeterminate impact, direction can be positive or negative

(1) Ad valorem tax impacts assume current tax rates.

(2) Recurring total = -\$418.2 million; pure nonrecurring in FY 2016-17 = -\$223.4 million; pure nonrecurring after

ST: FY 2016-17 = -\$350.1 million.

DA

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because this bill, by expanding current ad valorem tax exemptions, may reduce county and municipal government authority to raise revenue. The bill does not appear to qualify under any exemption or exception. Additionally, the provision of Art. VII, section 18(a), of the Florida Constitution may apply because the bill, by requiring certain minimum expenditures of tourist development taxes and requiring the provision of return-on-investment or cost-benefit analysis under certain circumstances, may require counties or municipalities to expend funds. It is unclear whether or not such expenditures will be significant. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOR already has general rule-making authority to create rules governing the taxes it administers.¹³⁰ The bill authorizes DOR to adopt emergency rules to implement the changes in the bill related to adopting the internal revenue code and decoupling from federal bonus depreciation provisions and to administer the back to school sales tax holiday, the small business sales tax holiday, the hunting and fishing sales tax holiday and the technology sales tax holiday.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹³⁰ See ss. 212.17(6), 212.18(3), 213.06(1) F.S.
STORAGE NAME: pcb04a.FTC
DATE: 2/2/2016

Fiscal Year 2016-17 Estimated Fiscal Impacts (millions of \$)

Issue	General Revenue		State Trust Funds		Local		Total		Bill Line #
	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	
<u>Sales Tax</u> : Business Rent/1% Permanent/2% for 1 Yr	(106.8)	(256.4)	(*)	(*)	(13.8)	(33.1)	(120.6)	(289.5)	1034-1075
<u>Sales Tax</u> : Machinery/Equipment--Manufacturing Exemption Extension	-	(59.7)	-	(*)	-	(13.4)	-	(73.1)	1683-1787
<u>Sales Tax</u> : Machinery/Equipment--Fruit & Vegetable Packinghouses	(0.8)	(0.9)	(*)	(*)	(0.2)	(0.2)	(1.0)	(1.1)	1707; 1741-1774
<u>Sales Tax</u> : Machinery/Equipment--Metal Recyclers	(1.7)	(1.7)	(*)	(*)	(0.5)	(0.5)	(2.2)	(2.2)	1706; 1723
<u>Sales Tax</u> : Tax Holiday/"Back-to-School"	(55.9)	-	(*)	-	(12.9)	-	(68.8)	-	2364-2420
<u>Sales Tax</u> : Tax Holiday/Small Business	(35.0)	-	(*)	-	(8.1)	-	(43.1)	-	2421-2449
<u>Sales Tax</u> : Tax Holiday/Technology	(22.8)	-	(*)	-	(5.3)	-	(28.1)	-	2479-2513
<u>Sales Tax</u> : Tax Holiday/Hunting and Fishing	(2.6)	-	(*)	-	(0.7)	-	(3.3)	-	2450-2478
<u>Sales Tax</u> : College Textbooks/1 Yr Extension	(33.3)	-	(*)	-	(7.6)	-	(40.9)	-	2534-2570
<u>Sales Tax</u> : Datacenters Exemption	(5.7)	(8.7)	(0.1)	(0.9)	(1.4)	(2.0)	(7.2)	(11.6)	1414-1646
<u>Sales Tax</u> : Admissions Resales (3 Yrs)	(1.5)	-	(*)	-	(0.4)	-	(1.9)	-	1076-1103
<u>Sales Tax</u> : Rural Areas of Opportunity/Bldg Materials	(3.2)	-	(*)	-	(1.3)	-	(4.5)	-	1295-1413
<u>Sales Tax</u> : School Book Fairs/1 Yr Exemption	(2.3)	-	(*)	-	(0.5)	-	(2.8)	-	2514-2533
<u>Sales Tax</u> : Veterans' Service Organizations/Food & Drink	(1.2)	(1.4)	(*)	(*)	(0.2)	(0.2)	(1.4)	(1.6)	1669-1676
<u>Corp Inc Tax</u> : Federal Code Conformance Issues	(20.0)	(1.5)	-	-	-	-	(20.0)	(1.5)	1788-1892; 2072-2188
<u>Corp Inc Tax</u> : R&D Credits/1 Yr Increase @ 9m	(4.3)	-	-	-	-	-	(4.3)	-	1985-1999
<u>Corp Inc Tax</u> : Brownfield Credits/1 Yr Increase	(3.0)	-	-	-	-	-	(3.0)	-	1899; 2198
<u>Corp Inc Tax</u> : Plastic Bag Reduction Pilot	-	-	-	-	-	-	-	-	2000-2071
<u>Corp Inc Tax</u> : Renewable Energy Prod Credits/1 Yr Extension	-	-	-	-	-	-	-	-	1936-1984
<u>Corp Inc Tax</u> : Renewable Energy Technology Credits/1 Yr Extension	-	-	-	-	-	-	-	-	1901-1935
<u>Ad Valorem</u> : Affordable Housing/Recorded Agreements (1)	-	-	-	-	-	(37.9)	-	(37.9)	584-646
<u>Ad Valorem</u> : Surviving Spouse/Disabled Veterans - Residency (1)	-	-	-	-	-	(1.7)	-	(1.7)	560-583
<u>Ad Valorem</u> : Disabled Vets Exemption Transferability	-	-	-	-	+/-	+/-	+/-	+/-	475; 528-550
<u>Ad Valorem</u> : EDATE Clarification/Enterprise Zones	-	-	-	-	(**)	(**)	(**)	(**)	494; 647-693; 2585
<u>Ad Valorem</u> : Aerial Photography (Appropriation)	(0.3)	-	-	-	-	-	(0.3)	-	414-470

Fiscal Year 2016-17 Estimated Fiscal Impacts (millions of \$)

Issue	General Revenue		State Trust Funds		Local		Total		Bill Line #
	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	
<u>Aviation Fuel Tax</u> : Exemption Elimination/Rate Cut	-	-	-	-	-	-	-	-	844-969
<u>Bev Tax/Tobacco Tax</u> : Cruise Line Tax Simplification	(0.1)	*	(*)	(*)	-	-	(0.1)	-	2201-2232; 2246-2339
<u>Bev Tax</u> : Pear Cider Rate Reduction	(0.1)	(0.1)	-	-	-	-	(0.1)	(0.1)	2233-2245
<u>Doc Stamp Tax</u> : Affordable Housing-related Notes	(0.1)	(0.1)	(0.2)	(0.2)	-	-	(0.3)	(0.3)	359-382
<u>Tobacco Tax</u> : Other Tob Prod/Definition Clarification	0.9	0.9	1.5	1.5	-	-	2.4	2.4	970-1033
<u>Appropriations</u> : Tax Holidays & Admin	(0.5)	-	-	-	-	-	(0.5)	-	
FY 2016-17 Total	(300.3)	(329.6)	1.2	0.4	(52.9)	(89.0)	(352.0)	(418.2)	
<u>Non-recurring Impacts After FY 2016-17</u>	Cash		Cash		Cash		Cash		
<u>Sales Tax</u> : Admissions Resales (17/18 & 18/19)	(3.5)	-	-	-	(1.0)	-	(4.5)	-	
<u>Sales Tax</u> : Rural Areas of Opportunity/Bldg Materials	(7.2)	-	-	-	(2.7)	-	(9.9)	-	
<u>Sales Tax</u> : Business Rent/1% for 1 yr (1/1/2018)	(274.8)	-	(*)	-	(35.5)	-	(310.3)	-	
<u>Corp Inc Tax</u> : Federal Code Conformance Issues	(2.8)	-	-	-	-	-	(2.8)	-	
<u>Corp Inc Tax</u> : Plastic Bag Reduction Pilot (18/19)	(5.0)	-	-	-	-	-	(5.0)	-	
<u>Corp Inc Tax</u> : Renewable Energy Prod Credits (17/18)	(10.0)	-	-	-	-	-	(10.0)	-	
<u>Corp Inc Tax</u> : Renewable Energy Technology Credits (17/18)	(10.0)	-	-	-	-	-	(10.0)	-	
<u>Corp Inc Tax</u> : R&D Credits (17/18)	(1.7)	-	-	-	-	-	(1.7)	-	
Bill Total	(615.3)	(329.6)	1.2	0.4	(92.1)	(89.0)	(706.2)	(418.2)	
							Recurring + Pure Nonrecurring (2) =	(991.7)	
<u>Other Issues</u>									
<u>Doc Stamp Tax</u> : Bond Coverage/Date Change									718
<u>Sales Tax</u> : Aircraft/Foreign Registered Clarification									1174-1188
<u>CRA</u> s: Non-profit Youth Centers & Other									383-413
<u>Tourist Development Tax</u> : Uses & Other Provisions									177-358
<p>(*) Impact less than \$50,000; (**) Impact is indeterminate. (+/-) Indeterminate impact, direction can be positive or negative (1) Ad valorem tax impacts assume current tax rates. (2) Recurring total = -\$418.2 million; pure nonrecurring in FY 2016-17 = -\$223.4 million; pure nonrecurring after FY 2016-17 = -\$350.1 million.</p>									

27 F.S.; exempting certain veterans and surviving spouses
 28 from certain annual homestead filing requirements;
 29 amending s. 196.012, F.S.; revising definitions
 30 related to certain businesses; amending s. 196.081,
 31 F.S.; expanding an exemption from ad valorem tax for
 32 certain permanently and totally disabled veterans
 33 under specified circumstances; removing the
 34 requirement that a deceased veteran have resided in
 35 this state on a specified date before the ad valorem
 36 tax exemption for homestead property may apply to the
 37 veteran's surviving spouse; exempting the unremarried
 38 surviving spouse of certain deceased veterans from
 39 payment of ad valorem taxes for certain homestead
 40 property in this state, irrespective of the state in
 41 which the veteran's homestead was located at the time
 42 of death, if certain conditions are met; amending
 43 196.1978, F.S.; providing a property tax discount for
 44 certain properties used to provide affordable housing
 45 to specified low-income persons and families; amending
 46 s. 196.1995, F.S.; revising an economic development ad
 47 valorem tax exemption for certain enterprise zone
 48 businesses; amending s. 201.15, F.S.; revising a date
 49 relating to the payment of debt service for certain
 50 bonds; amending s. 206.9825, F.S.; revising
 51 eligibility criteria for wholesalers and terminal
 52 suppliers to receive aviation fuel tax refunds or

53 | credits of previously paid excise taxes; providing for
 54 | future repeal of such refunds or credits; revising the
 55 | rate of the excise tax on certain aviation fuels on a
 56 | specified date; amending s. 210.13, F.S.; providing
 57 | procedures to be used when a person, other than a
 58 | dealer, is required but fails to remit certain taxes;
 59 | amending s. 210.25, F.S.; revising definitions related
 60 | to tobacco; amending s. 212.031, F.S.; reducing the
 61 | tax levied on the renting, leasing, letting, or
 62 | granting of a license for the use of real property;
 63 | providing applicability; amending s. 212.04, F.S.;
 64 | authorizing a refund or credit of tax for certain
 65 | resales of admissions upon the demonstration of
 66 | specified documentation; amending s. 212.05, F.S.;
 67 | clarifying the requirements for the exemption from tax
 68 | on certain sales of aircraft that will be registered
 69 | in a foreign jurisdiction; amending s. 212.08, F.S.;
 70 | creating an exemption for certain sales of data center
 71 | equipment, certain sales of electricity, and certain
 72 | sales of building materials; providing definitions;
 73 | exempting the sales of food or drinks by certain
 74 | qualified veterans' organizations; revising
 75 | definitions regarding certain industrial machinery and
 76 | equipment; removing the expiration date on the
 77 | exemption for purchases of certain machinery and
 78 | equipment; revising the definition of the term

79 "eligible manufacturing business" for purposes of
 80 qualification for the sales and use tax exemption;
 81 providing definitions for certain postharvest
 82 machinery and equipment, postharvest activities, and
 83 eligible postharvest activity businesses; providing an
 84 exemption for the purchase of such machinery and
 85 equipment; amending s. 220.03, F.S.; adopting the 2016
 86 version of the Internal Revenue Code; amending s.
 87 220.13, F.S.; incorporating a reference to a recent
 88 federal act into state law for the purpose of defining
 89 the term "adjusted federal income"; revising the
 90 treatment by this state of certain depreciation of
 91 assets allowed for federal income tax purposes;
 92 providing for retroactive applicability; authorizing
 93 the Department of Revenue to adopt emergency rules;
 94 amending s. 220.1845, F.S.; specifying a monetary cap
 95 on the grant of contaminated site rehabilitation tax
 96 credits available for the year; amending s. 220.192,
 97 F.S.; extending by 1 year the renewable energy
 98 technology corporate income tax credit; amending s.
 99 220.193, F.S.; authorizing certain nonpublic waste-to-
 100 energy facilities to be eligible for the renewable
 101 energy production corporate income tax credit;
 102 removing the repeal of the tax credit; extending by 1
 103 year a specified amount of available tax credit for
 104 eligible taxpayers; amending s. 220.196, F.S.;

105 specifying the amount of research and development tax
 106 credits that may be granted to business enterprises in
 107 a future year; creating s. 220.197, F.S.; creating a
 108 pilot program to authorize corporate income tax
 109 credits to incentivize the reduction in the use of
 110 plastic bags in Florida; providing definitions;
 111 providing eligibility criteria for the credit;
 112 requiring the Department of Revenue to administer the
 113 program; authorizing the Department of Revenue to
 114 adopt rules; amending s. 220.222, F.S.; revising due
 115 dates for partnership information returns and
 116 corporate tax returns; amending s. 220.241, F.S.;
 117 revising due dates to file a declaration of estimated
 118 corporate income tax; amending s. 220.33, F.S.;
 119 revising the due date of estimated payments of
 120 corporate income tax; amending 220.34, F.S.; revising
 121 the dates for purposes of calculating interest and
 122 penalties on underpayments of estimated corporate
 123 income tax; amending s. 376.30781, F.S.; revising the
 124 total amount of tax credits available for the
 125 rehabilitation of drycleaning-solvent-contaminated
 126 sites and brownfield sites in designated brownfield
 127 areas for a specified period; amending s. 561.121,
 128 F.S.; requiring that certain taxes related to
 129 alcoholic beverages and tobacco products sold on
 130 cruise ships be deposited into the Alcoholic Beverage

131 and Tobacco Trust Fund and to the General Revenue
 132 Fund; amending s. 564.06, F.S.; specifying the excise
 133 tax that is applicable to cider made from pears;
 134 amending s. 565.02, F.S.; creating an alternative
 135 method of taxation for alcoholic beverages and tobacco
 136 products sold on certain cruise ships; requiring the
 137 reporting of certain information by each permittee for
 138 purposes of determining the base rate applicable to
 139 the taxpayers; amending s. 951.22, F.S.; conforming a
 140 cross reference; providing an exemption from the sales
 141 and use tax for the retail sale of certain clothes,
 142 school supplies, and personal computers and related
 143 accessories during a specified period; providing
 144 exceptions; authorizing the Department of Revenue to
 145 adopt emergency rules; providing an appropriation;
 146 providing an exemption from the sales and use tax for
 147 the retail sale of certain items and articles of
 148 tangible personal property by certain small businesses
 149 during a specified period; providing an exemption from
 150 the sales and use tax on the retail sale of certain
 151 firearms, ammunition for firearms, camping tents, and
 152 fishing supplies during a specified period; providing
 153 exceptions; authorizing the department to adopt
 154 emergency rules; providing an appropriation; providing
 155 an exemption from the sales and use tax for certain
 156 personal computers and related accessories during a

157 specified period; providing exceptions; authorizing
 158 the department to adopt emergency rules; providing an
 159 appropriation; providing an exemption from the sales
 160 and use tax on the sale of certain books and other
 161 reading materials at book fairs; authorizing the
 162 department to adopt emergency rules; extending the
 163 exemption from the sales and use tax on the retail
 164 sale of certain textbooks for 1 year; providing an
 165 appropriation to the department to implement certain
 166 tax exemptions on rental or license fees; providing an
 167 appropriation to the department to assist certain
 168 counties in furnishing aerial photographs and maps;
 169 specifying that specified amendments related to
 170 certain businesses located in areas that were
 171 designated as enterprise zones, are remedial in
 172 nature; providing a finding of important state
 173 interest; providing effective dates.

174
 175 Be It Enacted by the Legislature of the State of Florida:

176
 177 Section 1. Effective October 1, 2016, paragraph (m) of
 178 subsection (3) and subsection (5) of section 125.0104, Florida
 179 Statutes, are amended to read:

180 125.0104 Tourist development tax; procedure for levying;
 181 authorized uses; referendum; enforcement.—

182 (3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

183 (m)1. In addition to any other tax which is imposed
 184 pursuant to this section, a high tourism impact county may
 185 impose an additional 1-percent tax on the exercise of the
 186 privilege described in paragraph (a) by extraordinary vote of
 187 the governing board of the county. The tax revenues received
 188 pursuant to this paragraph shall be used for one or more of the
 189 authorized uses pursuant to subparagraph (5) (a)3., paragraph
 190 (5) (b), or paragraph (5) (c) ~~subsection (5)~~.

191 2. A county is considered to be a high tourism impact
 192 county after the Department of Revenue has certified to such
 193 county that the sales subject to the tax levied pursuant to this
 194 section exceeded \$600 million during the previous calendar year,
 195 or were at least 18 percent of the county's total taxable sales
 196 under chapter 212 where the sales subject to the tax levied
 197 pursuant to this section were a minimum of \$200 million, except
 198 that no county authorized to levy a convention development tax
 199 pursuant to s. 212.0305 shall be considered a high tourism
 200 impact county. Once a county qualifies as a high tourism impact
 201 county, it shall retain this designation for the period the tax
 202 is levied pursuant to this paragraph.

203 3. ~~The provisions of Paragraphs (4) (a) - (d)~~ do shall not
 204 apply to the adoption of the additional tax authorized in this
 205 paragraph. The effective date of the levy and imposition of the
 206 tax authorized under this paragraph shall be the first day of
 207 the second month following approval of the ordinance by the
 208 governing board or the first day of any subsequent month as may

209 be specified in the ordinance. A certified copy of such
 210 ordinance shall be furnished by the county to the Department of
 211 Revenue within 10 days after approval of such ordinance.

212 (5) AUTHORIZED USES OF REVENUE.—

213 (a) Except as otherwise provided in this section, and
 214 after deducting payments required by subparagraph (c)2., all tax
 215 revenues received pursuant to this section by a county imposing
 216 the tourist development tax shall be used by that county as
 217 follows for the following purposes only:

218 1. No less than 35 percent of the revenues must be used
 219 for promotion as specified under this section. For purposes of
 220 this subparagraph, the term "promotion" does not include any
 221 expenditure made pursuant to subsection (9).

222 2. In a coastal county, up to 10 percent of the revenues
 223 may be used to provide emergency medical services, as defined in
 224 s. 401.107(3), or law enforcement services that are needed for
 225 enhanced emergency medical or public safety services related to
 226 increased tourism and visitors to an area. If taxes collected
 227 pursuant to this section are used to fund emergency medical
 228 services or public safety services for tourism or special
 229 events, a board of county commissioners or a city commission is
 230 prohibited from using such taxes to supplant the normal
 231 operating expenses for an emergency services department, a fire
 232 department, a sheriff's office, or a police department.

233 3. The remaining revenues shall be used for the following
 234 purposes only:

235 a.1. To acquire, construct, extend, enlarge, remodel,
 236 repair, improve, maintain, operate, or promote one or more:
 237 (I)a. Publicly owned and operated convention centers,
 238 sports stadiums, sports arenas, coliseums, or auditoriums within
 239 the boundaries of the county or subcounty special taxing
 240 district in which the tax is levied; or
 241 (II)b. Aquariums or museums that are publicly owned and
 242 operated or owned and operated by not-for-profit organizations
 243 and open to the public, within the boundaries of the county or
 244 subcounty special taxing district in which the tax is levied;
 245 b.2. To promote zoological parks that are publicly owned
 246 and operated or owned and operated by not-for-profit
 247 organizations and open to the public;
 248 c.3. To promote and advertise tourism in this state and
 249 nationally and internationally; however, if tax revenues are
 250 expended for an activity, service, venue, or event, the
 251 activity, service, venue, or event must have as one of its main
 252 purposes the attraction of tourists as evidenced by the
 253 promotion of the activity, service, venue, or event to tourists;
 254 d.4. To fund convention bureaus, tourist bureaus, tourist
 255 information centers, and news bureaus as county agencies or by
 256 contract with the chambers of commerce or similar associations
 257 in the county, which may include any indirect administrative
 258 costs for services performed by the county on behalf of the
 259 promotion agency; or
 260 e.5. To finance beach park facilities or beach

261 improvement, maintenance, renourishment, restoration, and
 262 erosion control, including shoreline protection, enhancement,
 263 cleanup, or restoration of inland lakes and rivers to which
 264 there is public access as those uses relate to the physical
 265 preservation of the beach, shoreline, or inland lake or river.
 266 However, any funds identified by a county as the local matching
 267 source for beach renourishment, restoration, or erosion control
 268 projects included in the long-range budget plan of the state's
 269 Beach Management Plan, pursuant to s. 161.091, or funds
 270 contractually obligated by a county in the financial plan for a
 271 federally authorized shore protection project may not be used or
 272 loaned for any other purpose. In counties with a population of
 273 fewer than 100,000 ~~population~~, up to 10 percent of the revenues
 274 from the tourist development tax may be used for beach park
 275 facilities.

276
 277 Sub-subparagraphs a. and b. ~~Subparagraphs 1. and 2.~~ may be
 278 implemented through service contracts and leases with lessees
 279 that have sufficient expertise or financial capability to
 280 operate such facilities.

281 (b) Tax revenues received pursuant to this section by a
 282 county with a population of less than 750,000 ~~population~~
 283 imposing a tourist development tax may only be used by that
 284 county for the following purposes in addition to those purposes
 285 allowed pursuant to paragraph (a): to acquire, construct,
 286 extend, enlarge, remodel, repair, improve, maintain, operate, or

287 promote one or more zoological parks, fishing piers, or nature
 288 centers which are publicly owned and operated or owned and
 289 operated by not-for-profit organizations and open to the public.
 290 All population figures relating to this subsection shall be
 291 based on the most recent population estimates prepared pursuant
 292 to ~~the provisions of~~ s. 186.901. These population estimates
 293 shall be those in effect on July 1 of each year.

294 (c)1. The revenues to be derived from the tourist
 295 development tax may be pledged to secure and liquidate revenue
 296 bonds issued by the county for the purposes set forth in sub-
 297 subparagraphs (a)3.a., b., and e. ~~subparagraphs (a)1., 2., and~~
 298 ~~5-~~ or for the purpose of refunding bonds previously issued for
 299 such purposes, or both; however, no more than 50 percent of the
 300 revenues from the tourist development tax may be pledged to
 301 secure and liquidate revenue bonds or revenue refunding bonds
 302 issued for the purposes set forth in sub-subparagraph (a)3.e.
 303 ~~subparagraph (a)5-~~. Such revenue bonds and revenue refunding
 304 bonds may be authorized and issued in such principal amounts,
 305 with such interest rates and maturity dates, and subject to such
 306 other terms, conditions, and covenants as the governing board of
 307 the county shall provide. The Legislature intends that this
 308 paragraph be full and complete authority for accomplishing such
 309 purposes, but such authority is supplemental and additional to,
 310 and not in derogation of, any powers now existing or later
 311 conferred under law.

312 2. Revenues from tourist development taxes that are

313 pledged to secure and liquidate revenue bonds or other forms of
314 indebtedness issued pursuant to subparagraph 1. that are
315 outstanding as of March 11, 2016, shall be first made available
316 to make payments when due on the outstanding bonds or other
317 forms of indebtedness before any other uses of the tax revenues.

318 (d) In order to recommend a proposed use of tourist
319 development tax revenues authorized in subparagraph (a)3. or
320 paragraph (b) to the governing body of a county, the Tourist
321 Development Council or a member of the public must submit a
322 written proposal to the governing board of the county. The
323 governing board of each county may determine the requirements
324 for a written proposal, but at a minimum, each proposal must
325 include a description of the proposed use and an estimate of the
326 cost.

327 (e) Before expending any revenues from a tourist
328 development tax on a use authorized in subparagraph (a)3. or
329 paragraph (b) in excess of \$100,000, the governing board of a
330 county or a person authorized by the governing board must
331 commission or perform a return-on-investment analysis or cost-
332 benefit analysis for the proposed use. The return-on-investment
333 analysis or cost-benefit analysis must be performed by an
334 individual who has prior experience with input-output modeling
335 or the application of economic multipliers such as the Regional
336 Input-Output Modeling System created by the Bureau of Economic
337 Analysis within the United States Department of Commerce. The
338 return-on-investment analysis or cost-benefit analysis shall be

339 paid for by revenues received pursuant to ss. 125.0104(3)(c) and
 340 (d).

341 (f)~~(d)~~ Any use of the local option tourist development tax
 342 revenues collected pursuant to this section for a purpose not
 343 expressly authorized by paragraph (3)(l) or paragraph (3)(n) or
 344 paragraph (a), paragraph (b), or paragraph (c) of this
 345 subsection is expressly prohibited.

346 (g) As an additional means of enforcing the prohibition in
 347 paragraph (f), any remitter of the tax specified in this
 348 section, or any organization representing multiple remitters of
 349 the tax, may challenge the county's decision to devote such tax
 350 revenues to the particular use or uses that the remitter claims
 351 violate paragraph (f) in an action filed pursuant to chapter
 352 120. During the pendency of the administrative proceeding and
 353 any resulting appeal, tax revenues collected under this section
 354 may not be used to fund the challenged use or uses. The county's
 355 interpretation of this section shall be afforded no deference in
 356 the proceedings. A prevailing remitter or remitter organization
 357 shall be awarded the reasonable costs of the action plus
 358 reasonable attorney fees, including on appeal.

359 Section 2. Section 159.621, Florida Statutes, is amended
 360 to read:

361 159.621 Housing bonds exempted from taxation.—

362 (1) The bonds of a housing finance authority issued under
 363 this act, together with all notes, mortgages, security
 364 agreements, letters of credit, or other instruments that ~~which~~

365 arise out of or are given to secure the repayment of bonds
 366 issued in connection with the financing of any housing
 367 development under this part, or a note or mortgage given with
 368 respect to a loan made by or on behalf of a housing finance
 369 authority pursuant to s. 159.608(8), as well as the interest
 370 thereon and income therefrom, are shall be exempt from all
 371 taxes. The exemption granted by this subsection does not apply
 372 section shall not be applicable to any tax imposed by chapter
 373 220 on interest, income, or profits on debt obligations owned by
 374 corporations or to any deed granted in connection with a
 375 property financed pursuant to this part.

376 (2) For a note or mortgage given with respect to a loan
 377 made by or on behalf of a housing finance authority pursuant to
 378 s. 159.608(8), to be exempt from all taxes pursuant to
 379 subsection (1), documentation from the housing finance authority
 380 affirming that the loan was made by or on behalf of the housing
 381 finance authority must be included with the mortgage at the time
 382 the mortgage is recorded.

383 Section 3. Paragraph (i) is added to subsection (6) of
 384 section 163.387, Florida Statutes, to read:

385 163.387 Redevelopment trust fund.—

386 (6) Moneys in the redevelopment trust fund may be expended
 387 from time to time for undertakings of a community redevelopment
 388 agency as described in the community redevelopment plan for the
 389 following purposes, including, but not limited to:

390 (i)1. Supporting youth centers, provided that a community

391 redevelopment agency spends no less than 5 percent of the trust
 392 fund revenues annually to support youth centers if:

393 a. More than 50 percent of the persons younger than 18
 394 years of age living in the community redevelopment area served
 395 by the agency are in families with incomes below the federal
 396 poverty level;

397 b. The youth center submits a written request for support
 398 to the community redevelopment agency; and

399 c. The expenditures do not materially impair any bonds
 400 outstanding as of March 11, 2016.

401 2. For purposes of this paragraph, the term "youth center"
 402 means a facility owned and operated by a government entity or a
 403 corporation not for profit registered pursuant to chapter 617,
 404 the primary purpose of which is to provide educational programs,
 405 after-school activities, counseling, and other services to
 406 children aged 5 to 18 years and which has operated for no less
 407 than 2 years before its request for support from the community
 408 redevelopment agency. The term includes indoor recreational
 409 facilities as defined in s. 402.302 which are owned and operated
 410 by a government entity or corporation not for profit registered
 411 pursuant to chapter 617. The term does not include public or
 412 private schools, child care facilities as defined in s. 402.302,
 413 or private prekindergarten providers as defined in s. 1002.51.

414 Section 4. Section 195.022, Florida Statutes, is amended
 415 to read:

416 195.022 Forms to be prescribed by Department of Revenue.—

417 The Department of Revenue shall prescribe all forms to be used
 418 by property appraisers, tax collectors, clerks of the circuit
 419 court, and value adjustment boards in administering and
 420 collecting ad valorem taxes. The department shall prescribe a
 421 form for each purpose. The county officer shall reproduce forms
 422 for distribution at the expense of his or her office. A county
 423 officer may use a form other than the form prescribed by the
 424 department upon obtaining written permission from the executive
 425 director of the department; however, a county officer may not
 426 use a form if the substantive content of the form varies from
 427 the form prescribed by the department for the same or a similar
 428 purpose. If the executive director finds good cause to grant
 429 such permission he or she may do so. The county officer may
 430 continue to use the approved form until the law that specifies
 431 the form is amended or repealed or until the officer receives
 432 written disapproval from the executive director. Otherwise, all
 433 such officers and their employees shall use the forms, and
 434 follow the instructions applicable to the forms, which are
 435 prescribed by the department. Upon request of any property
 436 appraiser or, in any event, at least once every 3 years, the
 437 department shall prescribe and furnish such aerial photographs
 438 and nonproperty ownership maps to the property appraisers as
 439 necessary to ensure that all real property within the state is
 440 properly listed on the roll. All photographs and maps furnished
 441 to a county that meets the population thresholds of a rural
 442 community as set forth in s. 288.0656(2)(e) ~~counties with a~~

443 ~~population of 25,000 or fewer~~ shall be paid for by the
 444 department as provided by law. For a county that does not meet
 445 those population thresholds ~~counties with a population greater~~
 446 ~~than 25,000~~, the department shall furnish such items at the
 447 property appraiser's expense. The department may incur
 448 reasonable expenses for procuring aerial photographs and
 449 nonproperty ownership maps and may charge a fee to the
 450 respective property appraiser equal to the cost incurred. The
 451 department shall deposit such fees into the Certification
 452 Program Trust Fund created pursuant to s. 195.002. There shall
 453 be a separate account in the trust fund for the aid and
 454 assistance activity of providing aerial photographs and
 455 nonproperty ownership maps to property appraisers. The
 456 department shall use money in the fund to pay such expenses. All
 457 forms and maps and instructions relating to their use must be
 458 substantially uniform throughout the state. An officer may
 459 employ supplemental forms and maps, at the expense of his or her
 460 office, which he or she deems expedient for the purpose of
 461 administering and collecting ad valorem taxes. The forms
 462 required in ss. 193.461(3)(a) and 196.011(1) for renewal
 463 purposes must require sufficient information for the property
 464 appraiser to evaluate the changes in use since the prior year.
 465 If the property appraiser determines, in the case of a taxpayer,
 466 that he or she has insufficient current information upon which
 467 to approve the exemption, or if the information on the renewal
 468 form is inadequate for him or her to evaluate the taxable status

469 of the property, he or she may require the resubmission of an
 470 original application.

471 Section 5. Effective January 1, 2017, paragraph (a) of
 472 subsection (1) of section 196.011, Florida Statutes, is amended
 473 to read:

474 196.011 Annual application required for exemption.—

475 (1) (a) Except as provided in s. 196.081(1)(b), every
 476 person or organization who, on January 1, has the legal title to
 477 real or personal property, except inventory, which is entitled
 478 by law to exemption from taxation as a result of its ownership
 479 and use shall, on or before March 1 of each year, file an
 480 application for exemption with the county property appraiser,
 481 listing and describing the property for which exemption is
 482 claimed and certifying its ownership and use. The Department of
 483 Revenue shall prescribe the forms upon which the application is
 484 made. Failure to make application, when required, on or before
 485 March 1 of any year shall constitute a waiver of the exemption
 486 privilege for that year, except as provided in subsection (7) or
 487 subsection (8).

488 Section 6. Effective upon this act becoming a law,
 489 paragraph (b) of subsection (14) and paragraph (b) of subsection
 490 (15) of section 196.012, Florida Statutes, are amended to read:

491 196.012 Definitions.—For the purpose of this chapter, the
 492 following terms are defined as follows, except where the context
 493 clearly indicates otherwise:

494 (14) "New business" means:

495 (b) Any business or organization located in an area that
 496 was designated as an enterprise zone pursuant to chapter 290 as
 497 of December 30, 2015, or brownfield area that first begins
 498 operation on a site clearly separate from any other commercial
 499 or industrial operation owned by the same business or
 500 organization.

501 (15) "Expansion of an existing business" means:

502 (b) Any business or organization located in an area that
 503 was designated as an enterprise zone pursuant to chapter 290 as
 504 of December 30, 2015, or brownfield area that increases
 505 operations on a site located within the same zone or area
 506 colocated with a commercial or industrial operation owned by the
 507 same business or organization under common control with the same
 508 business or organization.

509 Section 7. Effective January 1, 2017, subsections (1) and
 510 (4) of section 196.081, Florida Statutes, are amended,
 511 subsections (5) and (6) are renumbered as subsections (6) and
 512 (7), respectively, and a new subsection (5) is added to that
 513 section, to read:

514 196.081 Exemption for certain permanently and totally
 515 disabled veterans and for surviving spouses of veterans;
 516 exemption for surviving spouses of first responders who die in
 517 the line of duty.—

518 (1)(a) Any real estate that is owned and used as a
 519 homestead by a veteran who was honorably discharged with a
 520 service-connected total and permanent disability and for whom a

521 letter from the United States Government or United States
 522 Department of Veterans Affairs or its predecessor has been
 523 issued certifying that the veteran is totally and permanently
 524 disabled is exempt from taxation, if the veteran is a permanent
 525 resident of this state on January 1 of the tax year for which
 526 exemption is being claimed or was a permanent resident of this
 527 state on January 1 of the year the veteran died.

528 (b) Notwithstanding s. 196.011(1) and the timing of the
 529 residency requirements of s. 196.031(1)(a), a veteran may seek
 530 an exemption under paragraph (a) to be applied to a tax year for
 531 property that the veteran acquired and used as a homestead after
 532 January 1 of that tax year if the veteran received the exemption
 533 on another property in the immediately preceding tax year. To
 534 receive the exemption pursuant to this paragraph, the veteran
 535 must file an application with the property appraiser within 30
 536 days after acquiring the new property and no later than the 25th
 537 day following the mailing by the property appraiser of the
 538 notices required under s. 194.011(1). The application must list
 539 and describe both the previous homestead and the new property,
 540 and the veteran must certify under oath that he or she:

- 541 1. Is otherwise qualified to receive the exemption under
- 542 this section;
- 543 2. Holds legal title to the new property; and
- 544 3. Uses or intends to use the new property as his or her
- 545 homestead.

546

547 If the exemption is granted on the new homestead, the previous
548 homestead may not receive the exemption in that tax year unless
549 the subsequent owner of the previous homestead is qualified to
550 receive the exemption pursuant to paragraph (a).

551 (4) Any real estate that is owned and used as a homestead
552 by the surviving spouse of a veteran who died from service-
553 connected causes while on active duty as a member of the United
554 States Armed Forces and for whom a letter from the United States
555 Government or United States Department of Veterans Affairs or
556 its predecessor has been issued certifying that the veteran who
557 died from service-connected causes while on active duty is
558 exempt from taxation ~~if the veteran was a permanent resident of~~
559 ~~this state on January 1 of the year in which the veteran died.~~

560 (5) (a) The unremarried surviving spouse of a veteran who
561 was honorably discharged with a service-connected total and
562 permanent disability is entitled to the same exemption that
563 would otherwise be granted to a surviving spouse as described in
564 subsections (1)-(3) if, at the time of the veteran's death, the
565 veteran or the veteran's surviving spouse owned property in
566 another state in the United States and used it in a manner that
567 would have qualified for homestead exemption under s. 196.031
568 had the property been located in this state on January 1 of the
569 year the veteran died. To qualify for the exemption under this
570 subsection, the unremarried surviving spouse, subsequent to the
571 death of the veteran, must hold the legal or beneficial title to
572 homestead property in this state and permanently reside thereon

573 as specified in s. 196.031 as of January 1 of the tax year for
 574 which the exemption is being claimed.

575 (b) The unremarried surviving spouse must provide the
 576 documentation described in subsection (2) to the property
 577 appraiser in the county in which the property is located.

578 (c) The tax exemption provided in this subsection:

579 1. Is available until the surviving spouse remarries.

580 2. May be transferred to a new residence, in an amount not
 581 to exceed the amount granted from the most recent ad valorem tax
 582 roll, as long as the property is used as the surviving spouse's
 583 homestead property and the surviving spouse does not remarry.

584 Section 8. Effective January 1, 2017, section 196.1978,
 585 Florida Statutes, is amended to read:

586 196.1978 Affordable housing property exemption.—

587 (1) Property used to provide affordable housing to
 588 eligible persons as defined by s. 159.603 and natural persons or
 589 families meeting the extremely-low-income, very-low-income, low-
 590 income, or moderate-income limits specified in s. 420.0004,
 591 which is owned entirely by a nonprofit entity that is a
 592 corporation not for profit, qualified as charitable under s.
 593 501(c)(3) of the Internal Revenue Code and in compliance with
 594 Rev. Proc. 96-32, 1996-1 C.B. 717, is considered property owned
 595 by an exempt entity and used for a charitable purpose, and those
 596 portions of the affordable housing property that provide housing
 597 to natural persons or families classified as extremely low
 598 income, very low income, low income, or moderate income under s.

599 | 420.0004 are exempt from ad valorem taxation to the extent
 600 | authorized under s. 196.196. All property identified in this
 601 | subsection ~~section~~ must comply with the criteria provided under
 602 | s. 196.195 for determining exempt status and applied by property
 603 | appraisers on an annual basis. The Legislature intends that any
 604 | property owned by a limited liability company which is
 605 | disregarded as an entity for federal income tax purposes
 606 | pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) be treated
 607 | as owned by its sole member.

608 | (2) (a) Notwithstanding ss. 196.195 and 196.196, property
 609 | in a multifamily project that meets the requirements of
 610 | subparagraphs 1. and 2. is considered property used for a
 611 | charitable purpose and shall receive a 50-percent discount from
 612 | the amount of ad valorem tax otherwise owed beginning in the
 613 | 16th year of the term of the recorded agreement on those
 614 | portions of the affordable housing property that provide housing
 615 | to natural persons or families meeting the extremely-low-
 616 | income, very-low-income, or low-income limits specified in s.
 617 | 420.0004. The multifamily project must:

618 | 1. Contain more than 70 units that are used to provide
 619 | affordable housing to natural persons or families meeting the
 620 | extremely-low-income, very-low-income, or low-income limits
 621 | specified in s. 420.0004; and

622 | 2. Be subject to an agreement with the Florida Housing
 623 | Finance Corporation recorded in the official records of the
 624 | county in which the property is located to provide affordable

625 housing to extremely-low-income, very-low-income, or low-income
 626 persons.

627
 628 This discount terminates if the property no longer serves
 629 extremely-low-income, very-low-income, or low-income persons
 630 pursuant to the recorded agreement.

631 (b) To receive the discount under paragraph (a), a
 632 qualified applicant must submit an application to the county
 633 property appraiser by March 1.

634 (c) The property appraiser shall apply the discount by
 635 reducing the taxable value before certifying the tax roll to the
 636 tax collector.

637 1. The property appraiser shall first ascertain all other
 638 applicable exemptions, including exemptions provided pursuant to
 639 local option, and deduct all other exemptions from the assessed
 640 value.

641 2. Fifty percent of the remaining value shall be
 642 subtracted to yield the discounted taxable value.

643 3. The resulting taxable value shall be included in the
 644 certification for use by taxing authorities in setting millage.

645 4. The property appraiser shall place the discounted
 646 amount on the tax roll when it is extended.

647 Section 9. Effective upon this act becoming a law,
 648 subsection (5) of section 196.1995, Florida Statutes, is amended
 649 to read:

650 196.1995 Economic development ad valorem tax exemption.—

651 (5) Upon a majority vote in favor of such authority, the
 652 board of county commissioners or the governing authority of the
 653 municipality, at its discretion, by ordinance may exempt from ad
 654 valorem taxation up to 100 percent of the assessed value of all
 655 improvements to real property made by or for the use of a new
 656 business and of all tangible personal property of such new
 657 business, or up to 100 percent of the assessed value of all
 658 added improvements to real property made to facilitate the
 659 expansion of an existing business and of the net increase in all
 660 tangible personal property acquired to facilitate such expansion
 661 of an existing business. To qualify for this exemption, the
 662 improvements to real property must be made or the tangible
 663 personal property must be added or increased after approval by
 664 motion or resolution of the local governing body, subject to
 665 ordinance adoption or on or after the day the ordinance is
 666 adopted. However, if the authority to grant exemptions is
 667 approved in a referendum in which the ballot question contained
 668 in subsection (3) appears on the ballot, the authority of the
 669 board of county commissioners or the governing authority of the
 670 municipality to grant exemptions is limited solely to new
 671 businesses and expansions of existing businesses that are
 672 located in an area which was designated as an enterprise zone
 673 pursuant to chapter 290 as of December 30, 2015 or in a
 674 brownfield area. New businesses and expansions of existing
 675 businesses located in an area that was designated as an
 676 enterprise zone pursuant to chapter 290 as of December 30, 2015,

677 but not in a brownfield area, may qualify for the exemption only
 678 if approved by motion or resolution of the local governing body,
 679 subject to ordinance adoption, or by ordinance prior to December
 680 31, 2105. Property acquired to replace existing property shall
 681 not be considered to facilitate a business expansion. The
 682 exemption applies only to taxes levied by the respective unit of
 683 government granting the exemption. The exemption does not apply,
 684 however, to taxes levied for the payment of bonds or to taxes
 685 authorized by a vote of the electors pursuant to s. 9(b) or s.
 686 12, Art. VII of the State Constitution. Any such exemption shall
 687 remain in effect for up to 10 years with respect to any
 688 particular facility, regardless of any change in the authority
 689 of the county or municipality to grant such exemptions or the
 690 expiration of the Enterprise Zone Act pursuant to chapter 290.

691 The exemption shall not be prolonged or extended by granting
 692 exemptions from additional taxes or by virtue of any
 693 reorganization or sale of the business receiving the exemption.

694 Section 10. Section 201.15, Florida Statutes, is amended
 695 to read:

696 201.15 Distribution of taxes collected.—All taxes
 697 collected under this chapter are hereby pledged and shall be
 698 first made available to make payments when due on bonds issued
 699 pursuant to s. 215.618 or s. 215.619, or any other bonds
 700 authorized to be issued on a parity basis with such bonds. Such
 701 pledge and availability for the payment of these bonds shall
 702 have priority over any requirement for the payment of service

703 charges or costs of collection and enforcement under this
 704 section. All taxes collected under this chapter, except taxes
 705 distributed to the Land Acquisition Trust Fund pursuant to
 706 subsections (1) and (2), are subject to the service charge
 707 imposed in s. 215.20(1). Before distribution pursuant to this
 708 section, the Department of Revenue shall deduct amounts
 709 necessary to pay the costs of the collection and enforcement of
 710 the tax levied by this chapter. The costs and service charge may
 711 not be levied against any portion of taxes pledged to debt
 712 service on bonds to the extent that the costs and service charge
 713 are required to pay any amounts relating to the bonds. All of
 714 the costs of the collection and enforcement of the tax levied by
 715 this chapter and the service charge shall be available and
 716 transferred to the extent necessary to pay debt service and any
 717 other amounts payable with respect to bonds authorized before
 718 January 1, 2017 ~~2015~~, secured by revenues distributed pursuant
 719 to this section. All taxes remaining after deduction of costs
 720 shall be distributed as follows:

721 (1) Amounts necessary to make payments on bonds issued
 722 pursuant to s. 215.618 or s. 215.619, as provided under
 723 paragraphs (3)(a) and (b), or on any other bonds authorized to
 724 be issued on a parity basis with such bonds shall be deposited
 725 into the Land Acquisition Trust Fund.

726 (2) If the amounts deposited pursuant to subsection (1)
 727 are less than 33 percent of all taxes collected after first
 728 deducting the costs of collection, an amount equal to 33 percent

729 of all taxes collected after first deducting the costs of
 730 collection, minus the amounts deposited pursuant to subsection
 731 (1), shall be deposited into the Land Acquisition Trust Fund.

732 (3) Amounts on deposit in the Land Acquisition Trust Fund
 733 shall be used in the following order:

734 (a) Payment of debt service or funding of debt service
 735 reserve funds, rebate obligations, or other amounts payable with
 736 respect to Florida Forever bonds issued pursuant to s. 215.618.
 737 The amount used for such purposes may not exceed \$300 million in
 738 each fiscal year. It is the intent of the Legislature that all
 739 bonds issued to fund the Florida Forever Act be retired by
 740 December 31, 2040. Except for bonds issued to refund previously
 741 issued bonds, no series of bonds may be issued pursuant to this
 742 paragraph unless such bonds are approved and the debt service
 743 for the remainder of the fiscal year in which the bonds are
 744 issued is specifically appropriated in the General
 745 Appropriations Act.

746 (b) Payment of debt service or funding of debt service
 747 reserve funds, rebate obligations, or other amounts due with
 748 respect to Everglades restoration bonds issued pursuant to s.
 749 215.619. Taxes distributed under paragraph (a) and this
 750 paragraph must be collectively distributed on a pro rata basis
 751 when the available moneys under this subsection are not
 752 sufficient to cover the amounts required under paragraph (a) and
 753 this paragraph.

754

755 Bonds issued pursuant to s. 215.618 or s. 215.619 are equally
 756 and ratably secured by moneys distributable to the Land
 757 Acquisition Trust Fund.

758 (4) After the required distributions to the Land
 759 Acquisition Trust Fund pursuant to subsections (1) and (2) and
 760 deduction of the service charge imposed pursuant to s.
 761 215.20(1), the remainder shall be distributed as follows:

762 (a) The lesser of 24.18442 percent of the remainder or
 763 \$541.75 million in each fiscal year shall be paid into the State
 764 Treasury to the credit of the State Transportation Trust Fund.
 765 Of such funds, \$75 million for each fiscal year shall be
 766 transferred to the State Economic Enhancement and Development
 767 Trust Fund within the Department of Economic Opportunity.
 768 Notwithstanding any other law, the remaining amount credited to
 769 the State Transportation Trust Fund shall be used for:

770 1. Capital funding for the New Starts Transit Program,
 771 authorized by Title 49, U.S.C. s. 5309 and specified in s.
 772 341.051, in the amount of 10 percent of the funds;

773 2. The Small County Outreach Program specified in s.
 774 339.2818, in the amount of 10 percent of the funds;

775 3. The Strategic Intermodal System specified in ss.
 776 339.61, 339.62, 339.63, and 339.64, in the amount of 75 percent
 777 of the funds after deduction of the payments required pursuant
 778 to subparagraphs 1. and 2.; and

779 4. The Transportation Regional Incentive Program specified
 780 in s. 339.2819, in the amount of 25 percent of the funds after

781 deduction of the payments required pursuant to subparagraphs 1.
 782 and 2. The first \$60 million of the funds allocated pursuant to
 783 this subparagraph shall be allocated annually to the Florida
 784 Rail Enterprise for the purposes established in s. 341.303(5).

785 (b) The lesser of 0.1456 percent of the remainder or \$3.25
 786 million in each fiscal year shall be paid into the State
 787 Treasury to the credit of the Grants and Donations Trust Fund in
 788 the Department of Economic Opportunity to fund technical
 789 assistance to local governments.

790 Moneys distributed pursuant to paragraphs (a) and (b) may not be
 791 pledged for debt service unless such pledge is approved by
 792 referendum of the voters.

793 (c) Eleven and twenty-four hundredths percent of the
 794 remainder in each fiscal year shall be paid into the State
 795 Treasury to the credit of the State Housing Trust Fund. Of such
 796 funds, the first \$35 million shall be transferred annually,
 797 subject to any distribution required under subsection (5), to
 798 the State Economic Enhancement and Development Trust Fund within
 799 the Department of Economic Opportunity. The remainder shall be
 800 used as follows:

801 1. Half of that amount shall be used for the purposes for
 802 which the State Housing Trust Fund was created and exists by
 803 law.

804 2. Half of that amount shall be paid into the State
 805 Treasury to the credit of the Local Government Housing Trust
 806 Fund and used for the purposes for which the Local Government

807 Housing Trust Fund was created and exists by law.

808 (d) Twelve and ninety-three hundredths percent of the
 809 remainder in each fiscal year shall be paid into the State
 810 Treasury to the credit of the State Housing Trust Fund. Of such
 811 funds, the first \$40 million shall be transferred annually,
 812 subject to any distribution required under subsection (5), to
 813 the State Economic Enhancement and Development Trust Fund within
 814 the Department of Economic Opportunity. The remainder shall be
 815 used as follows:

816 1. Twelve and one-half percent of that amount shall be
 817 deposited into the State Housing Trust Fund and expended by the
 818 Department of Economic Opportunity and the Florida Housing
 819 Finance Corporation for the purposes for which the State Housing
 820 Trust Fund was created and exists by law.

821 2. Eighty-seven and one-half percent of that amount shall
 822 be distributed to the Local Government Housing Trust Fund and
 823 used for the purposes for which the Local Government Housing
 824 Trust Fund was created and exists by law. Funds from this
 825 category may also be used to provide for state and local
 826 services to assist the homeless.

827 (e) The lesser of 0.017 percent of the remainder or
 828 \$300,000 in each fiscal year shall be paid into the State
 829 Treasury to the credit of the General Inspection Trust Fund to
 830 be used to fund oyster management and restoration programs as
 831 provided in s. 379.362(3).

832 (5) Distributions to the State Housing Trust Fund pursuant

833 to paragraphs (4)(c) and (d) must be sufficient to cover amounts
 834 required to be transferred to the Florida Affordable Housing
 835 Guarantee Program's annual debt service reserve and guarantee
 836 fund pursuant to s. 420.5092(6)(a) and (b) up to the amount
 837 required to be transferred to such reserve and fund based on the
 838 percentage distribution of documentary stamp tax revenues to the
 839 State Housing Trust Fund which is in effect in the 2004-2005
 840 fiscal year.

841 (6) After the distributions provided in the preceding
 842 subsections, any remaining taxes shall be paid into the State
 843 Treasury to the credit of the General Revenue Fund.

844 Section 11. Paragraph (b) of subsection (1) of section
 845 206.9825, Florida Statutes, is amended to read:

846 206.9825 Aviation fuel tax.—

847 (1)

848 (b) Any licensed wholesaler or terminal supplier that
 849 delivers aviation fuel to an air carrier offering
 850 transcontinental jet service and that, after January 1, 1996,
 851 but before July 1, 2016, increases the air carrier's Florida
 852 workforce by more than 1,000 ~~1000~~ percent and by 250 or more
 853 full-time equivalent employee positions, may receive a credit or
 854 refund as the ultimate vendor of the aviation fuel for the 6.9
 855 cents excise tax previously paid, provided that the air carrier
 856 has no facility for fueling highway vehicles from the tank in
 857 which the aviation fuel is stored. In calculating the new or
 858 additional Florida full-time equivalent employee positions, any

859 full-time equivalent employee positions of parent or subsidiary
 860 corporations which existed before January 1, 1996, shall not be
 861 counted toward reaching the Florida employment increase
 862 thresholds. The refund allowed under this paragraph is in
 863 furtherance of the goals and policies of the State Comprehensive
 864 Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1.,
 865 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.

866 Section 12. Effective July 1, 2019, section 206.9825,
 867 Florida Statutes, as amended by this act, is amended to read:

868 206.9825 Aviation fuel tax.—

869 (1)(a) Except as otherwise provided in this part, an
 870 excise tax of 4.27 ~~6.9~~ cents per gallon of aviation fuel is
 871 imposed upon every gallon of aviation fuel sold in this state,
 872 or brought into this state for use, upon which such tax has not
 873 been paid or the payment thereof has not been lawfully assumed
 874 by some person handling the same in this state. Fuel taxed
 875 pursuant to this part is ~~shall~~ not be subject to the taxes
 876 imposed by ss. 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c),
 877 and (d).

878 ~~(b) Any licensed wholesaler or terminal supplier that~~
 879 ~~delivers aviation fuel to an air carrier offering~~
 880 ~~transcontinental jet service and that, after January 1, 1996,~~
 881 ~~but before July 1, 2016, increases the air carrier's Florida~~
 882 ~~workforce by more than 1,000 percent and by 250 or more full-~~
 883 ~~time equivalent employee positions, may receive a credit or~~
 884 ~~refund as the ultimate vendor of the aviation fuel for the 6.9~~

885 ~~cents excise tax previously paid, provided that the air carrier~~
 886 ~~has no facility for fueling highway vehicles from the tank in~~
 887 ~~which the aviation fuel is stored. In calculating the new or~~
 888 ~~additional Florida full time equivalent employee positions, any~~
 889 ~~full time equivalent employee positions of parent or subsidiary~~
 890 ~~corporations which existed before January 1, 1996, shall not be~~
 891 ~~counted toward reaching the Florida employment increase~~
 892 ~~thresholds. The refund allowed under this paragraph is in~~
 893 ~~furtherance of the goals and policies of the State Comprehensive~~
 894 ~~Plan set forth in s. 187.201(16) (a), (b)1., 2., (17) (a), (b)1.,~~
 895 ~~4., (19) (a), (b)5., (21) (a), (b)1., 2., 4., 7., 9., and 12.~~
 896 ~~(c) If, before July 1, 2001, the number of full time~~
 897 ~~equivalent employee positions created or added to the air~~
 898 ~~carrier's Florida workforce falls below 250, the exemption~~
 899 ~~granted pursuant to this section shall not apply during the~~
 900 ~~period in which the air carrier has fewer than the 250~~
 901 ~~additional employees.~~
 902 ~~(d) The exemption taken by credit or refund pursuant to~~
 903 ~~paragraph (b) shall apply only under the terms and conditions~~
 904 ~~set forth therein. If any part of that paragraph is judicially~~
 905 ~~declared to be unconstitutional or invalid, the validity of any~~
 906 ~~provisions taxing aviation fuel shall not be affected and all~~
 907 ~~fuel exempted pursuant to paragraph (b) shall be subject to tax~~
 908 ~~as if the exemption was never enacted. Every person benefiting~~
 909 ~~from such exemption shall be liable for and make payment of all~~
 910 ~~taxes for which a credit or refund was granted.~~

911 (b)~~(e)~~1. Sales of aviation fuel to, and exclusively used
 912 for flight training through a school of aeronautics or college
 913 of aviation by, a college based in this state which is a tax-
 914 exempt organization under s. 501(c)(3) of the Internal Revenue
 915 Code or a university based in this state are exempt from the tax
 916 imposed by this part if the college or university:

917 a. Is accredited by or has applied for accreditation by
 918 the Aviation Accreditation Board International; and

919 b. Offers a graduate program in aeronautical or aerospace
 920 engineering or offers flight training through a school of
 921 aeronautics or college of aviation.

922 2. A licensed wholesaler or terminal supplier that sells
 923 aviation fuel to a college or university qualified under this
 924 paragraph and that does not collect the aviation fuel tax from
 925 the college or university on such sale may receive an ultimate
 926 vendor credit for the 4.27-cent ~~6.9-cent~~ excise tax previously
 927 paid on the aviation fuel delivered to such college or
 928 university.

929 3. A college or university qualified under this paragraph
 930 which purchases aviation fuel from a retail supplier, including
 931 a fixed-base operator, and pays the 4.27-cent ~~6.9-cent~~ excise
 932 tax on the purchase may apply for and receive a refund of the
 933 aviation fuel tax paid.

934 (2) (a) An excise tax of 4.27 ~~6.9~~ cents per gallon is
 935 imposed on each gallon of kerosene in the same manner as
 936 prescribed for diesel fuel under ss. 206.87(2) and 206.872.

937 (b) The exemptions provided by s. 206.874 shall apply to
 938 kerosene if the dyeing and marking requirements of s. 206.8741
 939 are met.

940 (c) Kerosene prepackaged in containers of 5 gallons or
 941 less and labeled "Not for Use in a Motor Vehicle" is exempt from
 942 the taxes imposed by this part when sold for home heating and
 943 cooking. Packagers may qualify for a refund of taxes previously
 944 paid, as prescribed by the department.

945 (d) Sales of kerosene in quantities of 5 gallons or less
 946 by a person not licensed under this chapter who has no
 947 facilities for placing kerosene in the fuel supply system of a
 948 motor vehicle may qualify for a refund of taxes paid. Refunds of
 949 taxes paid shall be limited to sales for use in home heating or
 950 cooking and shall be documented as prescribed by the department.

951 (3) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed
 952 on each gallon of aviation gasoline in the manner prescribed by
 953 paragraph (2)(a). However, the exemptions allowed by paragraph
 954 (2)(b) do not apply to aviation gasoline.

955 (4) Any licensed wholesaler or terminal supplier that
 956 delivers undyed kerosene to a residence for home heating or
 957 cooking may receive a credit or refund as the ultimate vendor of
 958 the kerosene for the 4.27-cent ~~6.9-cents~~ excise tax previously
 959 paid.

960 (5) Any licensed wholesaler or terminal supplier that
 961 delivers undyed kerosene to a retail dealer not licensed as a
 962 wholesaler or terminal supplier for sale as a home heating or

963 cooking fuel may receive a credit or refund as the ultimate
 964 vendor of the kerosene for the 4.27-cent ~~6.9-cents~~ excise tax
 965 previously paid, provided the retail dealer has no facility for
 966 fueling highway vehicles from the tank in which the kerosene is
 967 stored.

968 (6) Any person who fails to meet the requirements of this
 969 section is subject to a backup tax as provided by s. 206.873.

970 Section 13. Section 210.13, Florida Statutes, is amended
 971 to read:

972 210.13 Determination of tax on failure to file a return.—
 973 If a dealer or other person required to remit the tax under this
 974 part fails to file any return required under this part, ~~or,~~
 975 having filed an incorrect or insufficient return, fails to file
 976 a correct or sufficient return, as the case may require, within
 977 10 days after the giving of notice to the dealer or other person
 978 by the Division of Alcoholic Beverages and Tobacco that such
 979 return or corrected or sufficient return is required, the
 980 division shall determine the amount of tax due by such dealer or
 981 other person any time within 3 years after the making of the
 982 earliest sale included in such determination and give written
 983 notice of such determination to such dealer or other person.
 984 Such a determination shall finally and irrevocably fix the tax
 985 unless the dealer or other person against whom it is assessed
 986 ~~shall~~, within 30 days after the giving of notice of such
 987 determination, applies ~~apply~~ to the division for a hearing.
 988 Judicial review shall not be granted unless the amount of tax

989 | stated in the decision, with penalties thereon, if any, is ~~shall~~
 990 | ~~have been~~ first deposited with the division, and an undertaking
 991 | or bond filed in the court in which such cause may be pending in
 992 | such amount and with such sureties as the court shall approve,
 993 | conditioned that if such proceeding be dismissed or the decision
 994 | of the division confirmed, the applicant for review will pay all
 995 | costs and charges which may accrue against the applicant in the
 996 | prosecution of the proceeding. At the option of the applicant,
 997 | such undertaking or bond may be in an additional sum sufficient
 998 | to cover the tax, penalties, costs, and charges aforesaid, in
 999 | which event the applicant shall not be required to pay such tax
 1000 | and penalties precedent to the granting of such review by such
 1001 | court.

1002 | Section 14. Subsections (1) through (13) of section
 1003 | 210.25, Florida Statutes, are renumbered as subsections (2)
 1004 | through (14), respectively, a new subsection (1) is added to
 1005 | that section, and present subsections (11) and (13) of that
 1006 | section are amended, to read:

1007 | 210.25 Definitions.—As used in this part:

1008 | (1) "Affiliate" means a manufacturer or other person that
 1009 | directly or indirectly, through one or more intermediaries,
 1010 | controls or is controlled by a distributor or that is under
 1011 | common control with a distributor.

1012 | (12) ~~(11)~~ "Tobacco products" means ~~loose tobacco suitable~~
 1013 | ~~for smoking;~~ snuff; snuff flour; loose tobacco; cavendish; plug
 1014 | and twist tobacco; fine cuts ~~and other chewing tobaccos;~~ shorts;

1015 refuse scraps; clippings, cuttings, and sweepings of tobacco;⁷
 1016 and all other kinds and forms of products made in whole or in
 1017 part from tobacco leaves for use prepared in such manner as to
 1018 ~~be suitable for chewing or sniffing. The term, but "tobacco~~
 1019 ~~products"~~ does not include cigarettes, as defined in by s.
 1020 210.01(1), or cigars.

1021 ~~(14)(13)~~ "Wholesale sales price" means the sum of:

1022 (a) The full price paid by the distributor to acquire the
 1023 tobacco products, including charges by the seller for the cost
 1024 of materials, the cost of labor and service, charges for
 1025 transportation and delivery, the federal excise tax, and any
 1026 other charge, even if the charge is listed as a separate item on
 1027 the invoice paid by the established price for which a
 1028 ~~manufacturer sells a tobacco product to a distributor, exclusive~~
 1029 ~~of any diminution by volume or other discounts, including a~~
 1030 ~~discount provided to a distributor by an affiliate; and~~

1031 (b) The federal excise tax paid by the distributor on the
 1032 tobacco products if the tax is not included in the full price
 1033 under paragraph (a).

1034 Section 15. Effective January 1, 2017, paragraphs (c) and
 1035 (d) of subsection (1) of section 212.031, Florida Statutes, are
 1036 amended, and paragraph (e) is added to that subsection, to read:

1037 212.031 Tax on rental or license fee for use of real
 1038 property.—

1039 (1)

1040 (c) For the exercise of such privilege, a tax is levied in

1041 an amount equal to 5 6 percent, except for the period beginning
 1042 January 1, 2018, and ending December 31, 2018, during which
 1043 period the tax shall be levied in an amount equal to 4 percent,
 1044 of and on the total rent or license fee charged for such real
 1045 property by the person charging or collecting the rental or
 1046 license fee. The total rent or license fee charged for such real
 1047 property shall include payments for the granting of a privilege
 1048 to use or occupy real property for any purpose and shall include
 1049 base rent, percentage rents, or similar charges. Such charges
 1050 shall be included in the total rent or license fee subject to
 1051 tax under this section whether or not they can be attributed to
 1052 the ability of the lessor's or licensor's property as used or
 1053 operated to attract customers. Payments for intrinsically
 1054 valuable personal property such as franchises, trademarks,
 1055 service marks, logos, or patents are not subject to tax under
 1056 this section. In the case of a contractual arrangement that
 1057 provides for both payments taxable as total rent or license fee
 1058 and payments not subject to tax, the tax shall be based on a
 1059 reasonable allocation of such payments and shall not apply to
 1060 that portion which is for the nontaxable payments.

1061 (d) When the rental or license fee of any such real
 1062 property is paid by way of property, goods, wares, merchandise,
 1063 services, or other thing of value, the tax shall be at the rate
 1064 of 5 6 percent, except for the period beginning January 1, 2018,
 1065 and ending December 31, 2018, during which period the tax shall
 1066 be levied in an amount equal to 4 percent, of the value of the

1067 property, goods, wares, merchandise, services, or other thing of
 1068 value.

1069 (e) The tax rate in effect at the time that the tenant or
 1070 person occupies, uses, or is entitled to the occupancy or use of
 1071 the real property is the tax rate applicable to a transaction
 1072 taxable pursuant to this section, regardless of when a rent or
 1073 license fee payment is due or paid. The applicable tax rate may
 1074 not be avoided by delaying or accelerating rent or license fee
 1075 payments.

1076 Section 16. Paragraph (c) of subsection (1) of section
 1077 212.04, Florida Statutes, is amended to read:

1078 212.04 Admissions tax; rate, procedure, enforcement.—

1079 (1)

1080 (c)1. The provisions of this chapter that authorize a tax-
 1081 exempt sale for resale do not apply to sales of admissions.
 1082 However, if a purchaser of an admission subsequently resells the
 1083 admission for more than the amount paid, the purchaser shall
 1084 collect tax on the full sales price and may take credit for the
 1085 amount of tax previously paid. If the purchaser of the admission
 1086 subsequently resells it for an amount equal to or less than the
 1087 amount paid, the purchaser shall not collect any additional tax
 1088 ~~or, nor shall the purchaser~~ be allowed to take credit for the
 1089 amount of tax previously paid.

1090 2. If a purchaser subsequently resells an admission to an
 1091 entity that has a valid sales tax exemption certificate from the
 1092 department, excluding an annual resale certificate, the

1093 purchaser may seek a refund or credit from the vendor. Upon an
 1094 adequate showing of the ultimate exempt nature of the
 1095 transaction, the vendor shall refund or credit the tax paid by
 1096 the purchaser and may then seek a refund or credit of the tax
 1097 from the department based on the ultimate exempt nature of the
 1098 transaction. The refund or credit is allowable only if the
 1099 vendor can show that the tax on the exempt transaction has been
 1100 remitted to the department. If the tax has not yet been remitted
 1101 to the department, the vendor may retain the exemption
 1102 documentation in lieu of remitting tax to the department. This
 1103 subparagraph is repealed July 1, 2019.

1104 Section 17. Paragraph (a) of subsection (1) of section
 1105 212.05, Florida Statutes, is amended to read:

1106 212.05 Sales, storage, use tax.—It is hereby declared to
 1107 be the legislative intent that every person is exercising a
 1108 taxable privilege who engages in the business of selling
 1109 tangible personal property at retail in this state, including
 1110 the business of making mail order sales, or who rents or
 1111 furnishes any of the things or services taxable under this
 1112 chapter, or who stores for use or consumption in this state any
 1113 item or article of tangible personal property as defined herein
 1114 and who leases or rents such property within the state.

1115 (1) For the exercise of such privilege, a tax is levied on
 1116 each taxable transaction or incident, which tax is due and
 1117 payable as follows:

1118 (a)1.a. At the rate of 6 percent of the sales price of

1119 each item or article of tangible personal property when sold at
 1120 retail in this state, computed on each taxable sale for the
 1121 purpose of remitting the amount of tax due the state, and
 1122 including each and every retail sale.

1123 b. Each occasional or isolated sale of an aircraft, boat,
 1124 mobile home, or motor vehicle of a class or type which is
 1125 required to be registered, licensed, titled, or documented in
 1126 this state or by the United States Government shall be subject
 1127 to tax at the rate provided in this paragraph. The department
 1128 shall by rule adopt any nationally recognized publication for
 1129 valuation of used motor vehicles as the reference price list for
 1130 any used motor vehicle which is required to be licensed pursuant
 1131 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
 1132 party to an occasional or isolated sale of such a vehicle
 1133 reports to the tax collector a sales price which is less than 80
 1134 percent of the average loan price for the specified model and
 1135 year of such vehicle as listed in the most recent reference
 1136 price list, the tax levied under this paragraph shall be
 1137 computed by the department on such average loan price unless the
 1138 parties to the sale have provided to the tax collector an
 1139 affidavit signed by each party, or other substantial proof,
 1140 stating the actual sales price. Any party to such sale who
 1141 reports a sales price less than the actual sales price is guilty
 1142 of a misdemeanor of the first degree, punishable as provided in
 1143 s. 775.082 or s. 775.083. The department shall collect or
 1144 attempt to collect from such party any delinquent sales taxes.

1145 In addition, such party shall pay any tax due and any penalty
 1146 and interest assessed plus a penalty equal to twice the amount
 1147 of the additional tax owed. Notwithstanding any other provision
 1148 of law, the Department of Revenue may waive or compromise any
 1149 penalty imposed pursuant to this subparagraph.

1150 2. This paragraph does not apply to the sale of a boat or
 1151 aircraft by or through a registered dealer under this chapter to
 1152 a purchaser who, at the time of taking delivery, is a
 1153 nonresident of this state, does not make his or her permanent
 1154 place of abode in this state, and is not engaged in carrying on
 1155 in this state any employment, trade, business, or profession in
 1156 which the boat or aircraft will be used in this state, or is a
 1157 corporation none of the officers or directors of which is a
 1158 resident of, or makes his or her permanent place of abode in,
 1159 this state, or is a noncorporate entity that has no individual
 1160 vested with authority to participate in the management,
 1161 direction, or control of the entity's affairs who is a resident
 1162 of, or makes his or her permanent abode in, this state. For
 1163 purposes of this exemption, either a registered dealer acting on
 1164 his or her own behalf as seller, a registered dealer acting as
 1165 broker on behalf of a seller, or a registered dealer acting as
 1166 broker on behalf of the purchaser may be deemed to be the
 1167 selling dealer. This exemption shall not be allowed unless:

1168 a. The purchaser removes a qualifying boat, as described
 1169 in sub-subparagraph f., from the state within 90 days after the
 1170 date of purchase or extension, or the purchaser removes a

1171 nonqualifying boat or an aircraft from this state within 10 days
 1172 after the date of purchase or, when the boat or aircraft is
 1173 repaired or altered, within 20 days after completion of the
 1174 repairs or alterations; or if the aircraft will be registered in
 1175 a foreign jurisdiction:

1176 (I) Application for the aircraft's registration is
 1177 properly filed with a civil airworthiness authority of a foreign
 1178 jurisdiction within 10 days from the date of purchase;

1179 (II) The purchaser removes the aircraft from the state to
 1180 a foreign jurisdiction within 10 days from the date the aircraft
 1181 is registered by the applicable foreign airworthiness authority;
 1182 and

1183 (III) The aircraft is operated in the state solely to
 1184 remove it from the state to a foreign jurisdiction.

1185
 1186 For purposes of this sub-subparagraph, the term "foreign
 1187 jurisdiction" means any jurisdiction outside of the United
 1188 States or any of its territories;

1189 b. The purchaser, within 30 days from the date of
 1190 departure, provides ~~shall provide~~ the department with written
 1191 proof that the purchaser licensed, registered, titled, or
 1192 documented the boat or aircraft outside the state. If such
 1193 written proof is unavailable, within 30 days the purchaser shall
 1194 provide proof that the purchaser applied for such license,
 1195 title, registration, or documentation. The purchaser shall
 1196 forward to the department proof of title, license, registration,

1197 or documentation upon receipt;

1198 c. The purchaser, within 10 days of removing the boat or
 1199 aircraft from Florida, furnishes ~~shall furnish~~ the department
 1200 with proof of removal in the form of receipts for fuel, dockage,
 1201 slippage, tie-down, or hangaring from outside of Florida. The
 1202 information so provided must clearly and specifically identify
 1203 the boat or aircraft;

1204 d. The selling dealer, within 5 days of the date of sale,
 1205 provides ~~shall provide~~ to the department a copy of the sales
 1206 invoice, closing statement, bills of sale, and the original
 1207 affidavit signed by the purchaser attesting that he or she has
 1208 read the provisions of this section;

1209 e. The seller makes a copy of the affidavit a part of his
 1210 or her record for as long as required by s. 213.35; and

1211 f. Unless the nonresident purchaser of a boat of 5 net
 1212 tons of admeasurement or larger intends to remove the boat from
 1213 this state within 10 days after the date of purchase or when the
 1214 boat is repaired or altered, within 20 days after completion of
 1215 the repairs or alterations, the nonresident purchaser applies
 1216 ~~shall apply~~ to the selling dealer for a decal which authorizes
 1217 90 days after the date of purchase for removal of the boat. The
 1218 nonresident purchaser of a qualifying boat may apply to the
 1219 selling dealer within 60 days after the date of purchase for an
 1220 extension decal that authorizes the boat to remain in this state
 1221 for an additional 90 days, but not more than a total of 180
 1222 days, before the nonresident purchaser is required to pay the

1223 tax imposed by this chapter. The department is authorized to
 1224 issue decals in advance to dealers. The number of decals issued
 1225 in advance to a dealer shall be consistent with the volume of
 1226 the dealer's past sales of boats which qualify under this sub-
 1227 subparagraph. The selling dealer or his or her agent shall mark
 1228 and affix the decals to qualifying boats in the manner
 1229 prescribed by the department, prior to delivery of the boat.

1230 (I) The department is hereby authorized to charge dealers
 1231 a fee sufficient to recover the costs of decals issued, except
 1232 the extension decal shall cost \$425.

1233 (II) The proceeds from the sale of decals will be
 1234 deposited into the administrative trust fund.

1235 (III) Decals shall display information to identify the
 1236 boat as a qualifying boat under this sub-subparagraph,
 1237 including, but not limited to, the decal's date of expiration.

1238 (IV) The department is authorized to require dealers who
 1239 purchase decals to file reports with the department and may
 1240 prescribe all necessary records by rule. All such records are
 1241 subject to inspection by the department.

1242 (V) Any dealer or his or her agent who issues a decal
 1243 falsely, fails to affix a decal, mismarks the expiration date of
 1244 a decal, or fails to properly account for decals will be
 1245 considered prima facie to have committed a fraudulent act to
 1246 evade the tax and will be liable for payment of the tax plus a
 1247 mandatory penalty of 200 percent of the tax, and shall be liable
 1248 for fine and punishment as provided by law for a conviction of a

1249 | misdemeanor of the first degree, as provided in s. 775.082 or s.
 1250 | 775.083.

1251 | (VI) Any nonresident purchaser of a boat who removes a
 1252 | decal prior to permanently removing the boat from the state, or
 1253 | defaces, changes, modifies, or alters a decal in a manner
 1254 | affecting its expiration date prior to its expiration, or who
 1255 | causes or allows the same to be done by another, will be
 1256 | considered prima facie to have committed a fraudulent act to
 1257 | evade the tax and will be liable for payment of the tax plus a
 1258 | mandatory penalty of 200 percent of the tax, and shall be liable
 1259 | for fine and punishment as provided by law for a conviction of a
 1260 | misdemeanor of the first degree, as provided in s. 775.082 or s.
 1261 | 775.083.

1262 | (VII) The department is authorized to adopt rules
 1263 | necessary to administer and enforce this subparagraph and to
 1264 | publish the necessary forms and instructions.

1265 | (VIII) The department is hereby authorized to adopt
 1266 | emergency rules pursuant to s. 120.54(4) to administer and
 1267 | enforce the provisions of this subparagraph.

1268 |
 1269 | If the purchaser fails to remove the qualifying boat from this
 1270 | state within the maximum 180 days after purchase or a
 1271 | nonqualifying boat or an aircraft from this state within 10 days
 1272 | after purchase or, when the boat or aircraft is repaired or
 1273 | altered, within 20 days after completion of such repairs or
 1274 | alterations, or permits the boat or aircraft to return to this

1275 state within 6 months from the date of departure, except as
 1276 provided in s. 212.08(7)(fff), or if the purchaser fails to
 1277 furnish the department with any of the documentation required by
 1278 this subparagraph within the prescribed time period, the
 1279 purchaser shall be liable for use tax on the cost price of the
 1280 boat or aircraft and, in addition thereto, payment of a penalty
 1281 to the Department of Revenue equal to the tax payable. This
 1282 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
 1283 The maximum 180-day period following the sale of a qualifying
 1284 boat tax-exempt to a nonresident may not be tolled for any
 1285 reason.

1286 Section 18. Paragraphs (r) and (s) are added to subsection
 1287 (5) of section 212.08, Florida Statutes, and paragraphs (n) and
 1288 (kkk) of subsection (7) of that section are amended, to read:

1289 212.08 Sales, rental, use, consumption, distribution, and
 1290 storage tax; specified exemptions.—The sale at retail, the
 1291 rental, the use, the consumption, the distribution, and the
 1292 storage to be used or consumed in this state of the following
 1293 are hereby specifically exempt from the tax imposed by this
 1294 chapter.

1295 (5) EXEMPTIONS; ACCOUNT OF USE.—

1296 (r) Building materials, rental of tangible personal
 1297 property, and pest control services used to build new
 1298 construction located in a rural area of opportunity.—

1299 1. Building materials, rental of tangible personal
 1300 property, and pest control services used to build new

1301 construction located in a rural area of opportunity as
 1302 designated by the Governor pursuant to s. 288.0656 are exempt
 1303 from the tax imposed by this chapter if an owner, lessee, or
 1304 lessor can demonstrate to the satisfaction of the department
 1305 that the items and services have been used for new construction
 1306 located in a rural area of opportunity. Except as provided in
 1307 subparagraph 2., this exemption inures to the owner, lessee, or
 1308 lessor at the time the new construction occurs, but only through
 1309 a refund of previously paid taxes. To receive a refund pursuant
 1310 to this paragraph, the owner, lessee, or lessor of the new
 1311 construction must file an application under oath with the Rural
 1312 Economic Development Initiative created in s. 288.0656. The
 1313 application must include:

- 1314 a. The name and address of the person claiming the refund.
- 1315 b. An address and assessment roll parcel number of the
 1316 real property that was improved by the new construction for
 1317 which a refund of previously paid taxes is being sought.
- 1318 c. A description of the new construction.
- 1319 d. A copy of a valid building permit issued by the county
 1320 or municipal building department for the new construction.
- 1321 e. A sworn statement, under penalty of perjury, from the
 1322 general contractor licensed in this state with whom the
 1323 applicant contracted to build the new construction, which lists
 1324 the exempt goods and services, the actual cost of the exempt
 1325 goods and services, and the amount of sales tax paid in this
 1326 state on the exempt goods and services and which states that the

1327 improvement to the real property was new construction. If a
 1328 general contractor was not used, the applicant, not a general
 1329 contractor, shall make the sworn statement required by this sub-
 1330 subparagraph. Copies of the invoices that evidence the purchase
 1331 of the exempt goods and services and the payment of sales tax
 1332 thereon must be attached to the sworn statement provided by the
 1333 general contractor or by the applicant. Unless the actual cost
 1334 of exempt goods and services and the payment of sales taxes are
 1335 documented by a general contractor or by the applicant in this
 1336 manner, the cost of the exempt goods and services is deemed to
 1337 be an amount equal to 40 percent of the increase in assessed
 1338 value of the property for ad valorem tax purposes.

1339 f. A certification by the local building code inspector
 1340 that the new construction is substantially completed and is new
 1341 construction.

1342 2. This exemption inures to a municipality, county, other
 1343 governmental unit or agency, or nonprofit community-based
 1344 organization through a refund of previously paid taxes if the
 1345 exempt goods and services are paid for from the funds of a
 1346 community development block grant, State Housing Initiatives
 1347 Partnership Program, or similar grant or loan program. To
 1348 receive a refund, a municipality, county, other governmental
 1349 unit or agency, or nonprofit community-based organization must
 1350 file an application that includes the same information required
 1351 under subparagraph 1. In addition, the application must include
 1352 a sworn statement signed by the chief executive officer of the

1353 municipality, county, other governmental unit or agency, or
 1354 nonprofit community-based organization seeking a refund which
 1355 states that the exempt goods and services for which a refund is
 1356 sought were funded by a community development block grant, State
 1357 Housing Initiatives Partnership Program, or similar grant or
 1358 loan program.

1359 3. Within 10 working days after receiving an application,
 1360 the Rural Economic Development Initiative shall review the
 1361 application to determine whether it contains all the information
 1362 required by subparagraph 1. or subparagraph 2. and meets the
 1363 criteria set out in this paragraph. The Rural Economic
 1364 Development Initiative shall certify all applications that
 1365 contain the required information and are eligible to receive a
 1366 refund. The certification must be in writing, and a copy shall
 1367 be transmitted to the executive director of the department. The
 1368 applicant is responsible for forwarding a certified application
 1369 to the department within the time specified in subparagraph 4.

1370 4. An application for a refund must be submitted to the
 1371 department within 6 months after the new construction is deemed
 1372 to be substantially completed by the local building code
 1373 inspector or by November 1 after the improved property is first
 1374 subject to assessment.

1375 5. Only one exemption through a refund of previously paid
 1376 taxes for the new construction is permitted for any single
 1377 parcel of property unless there is a change in ownership, a new
 1378 lessor, or a new lessee of the real property. A refund may not

1379 be granted unless the amount to be refunded exceeds \$500. A
 1380 refund may not exceed the lesser of 97.5 percent of the Florida
 1381 sales or use tax paid on the cost of the exempt goods and
 1382 services as determined pursuant to sub-subparagraph 1.e. or
 1383 \$10,000. A refund shall be made within 30 days after formal
 1384 approval by the department of the application for the refund.

1385 6. The department may adopt rules governing the manner and
 1386 form of refund applications and may establish guidelines as to
 1387 the requisites for an affirmative showing of qualification for
 1388 exemption under this paragraph.

1389 7. The department shall deduct 10 percent of each refund
 1390 amount granted under this paragraph from the amount transferred
 1391 into the Local Government Half-cent Sales Tax Clearing Trust
 1392 Fund pursuant to s. 212.20 for the county area in which the new
 1393 construction is located and shall transfer that amount to the
 1394 General Revenue Fund.

1395 8. For the purposes of the exemption provided in this
 1396 paragraph, the term:

1397 a. "Building materials" means tangible personal property
 1398 that becomes a component part of improvements to real property.

1399 b. "Exempt goods and services" means building materials,
 1400 rental of tangible personal property, and pest control services
 1401 used to build new construction.

1402 c. "New construction" means improvements to real property
 1403 which did not previously exist but does not include
 1404 reconstruction, renovation, restoration, rehabilitation,

1405 modification, alteration, or expansion of buildings already
 1406 located on the parcel on which the new construction is built.

1407 d. "Pest control" has the same meaning as provided in s.
 1408 482.021.

1409 e. "Real property" has the same meaning as provided in s.
 1410 192.001(12), except that the term does not include a condominium
 1411 parcel or condominium property as defined in s. 718.103.

1412 f. "Substantially completed" has the same meaning as
 1413 provided in s. 192.042(1).

1414 (s) Data center equipment and electricity.-

1415 1. The sale of data center equipment to a business
 1416 certified pursuant to this paragraph is exempt from the tax
 1417 imposed by this chapter.

1418 2. The sale of electricity for a qualifying data center to
 1419 a business certified pursuant to this paragraph is exempt from
 1420 the tax imposed by this chapter.

1421 3. Building materials purchased for use in constructing or
 1422 expanding a qualifying data center are exempt from the tax
 1423 imposed by this chapter.

1424 4. For sales of items that are tax exempt pursuant to this
 1425 paragraph, possession of a written certification from the
 1426 purchaser, certifying the purchaser's entitlement to the
 1427 exemption, relieves the seller of the responsibility of
 1428 collecting the tax on the sale of such items, and the department
 1429 shall look solely to the purchaser for recovery of the tax if it
 1430 determines that the purchaser was not entitled to the exemption.

1431 5.a. To be eligible to receive the exemption provided by
 1432 subparagraph 1., subparagraph 2., and subparagraph 3., the
 1433 Department of Economic Opportunity must grant an initial
 1434 certification that a business has made or will make a cumulative
 1435 capital investment of at least \$75 million. To become certified
 1436 initially, a business shall submit an application to Enterprise
 1437 Florida, Inc. Enterprise Florida, Inc., must review the
 1438 application and forward it with a recommendation to approve or
 1439 disapprove to the Department of Economic Opportunity. If the
 1440 Department of Economic Opportunity approves the application, the
 1441 initial certification is valid for 2 years from the date of
 1442 approval. Until a business entity has reached the required
 1443 cumulative capital investment or has applied for a final
 1444 certification under sub-subparagraph d., in lieu of submitting a
 1445 new application every 2 years, the Department of Economic
 1446 Opportunity may renew the initial certification biennially if
 1447 the business entity submits a statement, certified under oath,
 1448 that there has not been a material change in the conditions or
 1449 circumstances entitling the business entity to the initial
 1450 certification. The initial application and the certification
 1451 renewal statement shall be developed by the Department of
 1452 Economic Opportunity.

1453 b. The Division of Strategic Business Development of the
 1454 Department of Economic Opportunity shall review each submitted
 1455 initial application within 5 working days and determine whether
 1456 the application is complete. Once complete, the division shall,

1457 within 10 working days, evaluate the application and recommend
 1458 approval or disapproval to the Department of Economic
 1459 Opportunity.

1460 c. Upon receipt of the initial application and
 1461 recommendation from the division, or upon receipt of a
 1462 certification renewal statement, the Department of Economic
 1463 Opportunity shall certify within 5 working days those
 1464 applications that meet the requirements of this paragraph and
 1465 shall notify both the applicant of the original certification or
 1466 certification renewal and the department. The department shall
 1467 issue an exemption certificate to the applicant within 5 working
 1468 days after such notification. If the Department of Economic
 1469 Opportunity finds that the applicant does not meet the
 1470 requirements, it shall notify the applicant and Enterprise
 1471 Florida, Inc., within 10 working days that the application for
 1472 certification has been denied and the reasons for denial. The
 1473 Department of Economic Opportunity has final approval authority
 1474 for certification under this section.

1475 d. Within 5 years from the date that a business certified
 1476 pursuant to this paragraph makes its first qualifying real or
 1477 tangible property investment in the construction or expansion of
 1478 a data center, the business shall apply to the Department of
 1479 Economic opportunity for final certification. The application
 1480 must contain information sufficient for the Department of
 1481 Economic Opportunity to verify that the business made the
 1482 cumulative capital investment required by the threshold

1483 contained in sub-subparagraph a. associated with its initial
 1484 certification. The Department of Economic Opportunity shall
 1485 notify the applicant for final certification and the department
 1486 of its determination. The limitations set forth in s. 95.091(3)
 1487 shall be tolled from the time the department issues an exemption
 1488 certificate pursuant to sub-subparagraph c. until the Department
 1489 of Economic Opportunity makes a final certification
 1490 determination pursuant to this sub-subparagraph.

1491 e. The initial application and certification renewal
 1492 statement must indicate, for program evaluation purposes only,
 1493 the average number of full-time equivalent employees at the
 1494 facility over the preceding calendar year, the average wage and
 1495 benefits paid to those employees over the preceding calendar
 1496 year, the total investment made in real and tangible personal
 1497 property over the preceding calendar year, and the total value
 1498 of tax-exempt purchases and taxes exempted during the previous
 1499 calendar year. The department shall assist the Department of
 1500 Economic Opportunity in evaluating and verifying information
 1501 provided in the application for exemption.

1502 f. The Department of Economic Opportunity may use the
 1503 information reported on the initial application and
 1504 certification renewal statement for program evaluation purposes
 1505 only. The average number of full-time equivalent employees, a
 1506 specific level of employment creation or maintenance, or the
 1507 like is not a prerequisite or requirement to qualify for this
 1508 exemption.

1509 6. A business is eligible to receive the exemption
 1510 provided by subparagraph 3. if it has written certification from
 1511 a business certified pursuant to this paragraph that the
 1512 building materials purchased tax-exempt will be used in
 1513 constructing or expanding a qualifying data center. The written
 1514 certification must include a copy of the eligible business's
 1515 exemption certificate.

1516 7. The Department of Economic Opportunity and the
 1517 department may adopt rules to implement this exemption.
 1518 Purchasers and lessees of data center equipment and purchasers
 1519 of electricity that qualify for the exemption provided in this
 1520 paragraph shall furnish the vendor with a copy of the exemption
 1521 certificate for the item or items eligible for exemption. A
 1522 person furnishing a false exemption certificate to the vendor
 1523 for the purpose of evading payment of any tax imposed under this
 1524 chapter is subject to the penalties set forth in s. 212.085 and
 1525 as otherwise provided by law. Purchasers with self-accrual
 1526 authority shall maintain all documentation necessary to prove
 1527 the exempt status of purchases.

1528 8. As used in this paragraph, the term:

1529 a. "Cumulative capital investment" means the total capital
 1530 investment in land, buildings, equipment, including data center
 1531 equipment, and all other eligible capital costs made in
 1532 connection with the construction or expansion of a data center
 1533 in this state. The term does not include expenditures to replace
 1534 tangible personal property that has reached the end of its

1535 useful life or expenditures made to acquire an existing data
 1536 center. To qualify, such investment must be made on or after
 1537 January 1, 2016, and within 5 years after the date an owner,
 1538 operator, user, or tenant of a data center makes its first real
 1539 or tangible property investment in the construction or expansion
 1540 of a data center.

1541 b. "Data center" means a facility that:

1542 (I) Is comprised of one or more land parcels in the state,
 1543 along with the buildings, substations and other infrastructure,
 1544 fixtures, and personal property located on those parcels;

1545 (II) Is or will be occupied by one or more operators,
 1546 owners, users, or tenants; and

1547 (III) Is primarily used to house and operate equipment
 1548 that receives, stores, aggregates, manages, processes,
 1549 transforms, retrieves, researches, or transmits data and
 1550 services and functions related thereto.

1551 c. "Data center equipment" means equipment used wholly
 1552 within, wholly at, or wholly in conjunction with a data center
 1553 to outfit, operate, support, power, secure, or protect a data
 1554 center, along with component parts, installations, refreshments,
 1555 replacements, redundancies, operating or enabling software
 1556 including any updates and new versions, and upgrades to or for
 1557 this equipment, regardless of whether any of the equipment is
 1558 affixed to or incorporated into real property, including:

1559 (I) Equipment necessary to transform, generate,
 1560 distribute, store, back up, or manage electricity that is

1561 required to operate computer server equipment, including
 1562 generators, transformers, substations, whether located at the
 1563 facility or off-site, uninterruptible power supply systems,
 1564 power distribution units, power panel conduits, gaseous fuel
 1565 pipng, cabling, wiring, busses, duct banks, switches,
 1566 switchboards and other switch gear, batteries, and testing
 1567 equipment.

1568 (II) Equipment necessary to cool and maintain a controlled
 1569 environment for the operation of computers, servers, and other
 1570 components of the data center, including mechanical equipment,
 1571 refrigerant piping, gaseous fuel piping, adiabatic and free
 1572 cooling systems, cooling towers, chillers, condensers, pumps,
 1573 fans, water softeners, air handling units, indoor direct
 1574 exchange units, fans, ducting and filters, and related HVAC
 1575 equipment.

1576 (III) Water conservation systems, including facilities or
 1577 mechanisms that are designed to collect, conserve, and reuse
 1578 water.

1579 (IV) Computers, servers, and related equipment, chassis,
 1580 networking and telecommunications equipment, switches, racks,
 1581 cabling, trays, conduits, fiber optics, and routers.

1582 (V) Monitoring equipment and security systems.

1583 (VI) Modular data centers and preassembled components of
 1584 any item described in this paragraph, including components used
 1585 in the manufacturing of modular data centers.

1586 (VII) Other tangible personal property, fixtures, and

1587 infrastructure that are essential to the operation of a data
 1588 center.

1589 d. "Eligible capital costs" means all expenses incurred by
 1590 an owner, operator, user, or tenant of a data center connected
 1591 with acquiring, constructing, installing, equipping, or
 1592 expanding a data center, including, but not limited to:

1593 (I) The costs of acquiring, constructing, installing,
 1594 equipping, and financing a data center, including all
 1595 obligations incurred for labor and obligations to contractors,
 1596 subcontractors, builders, and materialmen.

1597 (II) The costs of acquiring land or rights to land and any
 1598 costs incidental thereto, including recording fees.

1599 (III) The costs of architectural and engineering services,
 1600 including test borings, surveys, estimates, plans and
 1601 specifications, preliminary investigations, environmental
 1602 mitigation, and supervision of construction, as well as the
 1603 performance of all duties required by or consequent to the
 1604 acquisition, construction, installation, and equipping of a data
 1605 center.

1606 (IV) The costs associated with installing fixtures and
 1607 equipment; surveys, including archaeological and environmental
 1608 surveys; site tests and inspections; subsurface site work and
 1609 excavation; removal of structures, roadways, and other surface
 1610 obstructions; filling, grading, paving, and provision for
 1611 drainage, storm water retention, and installation of utilities,
 1612 including water, sewer, sewage treatment, gas, electricity,

1613 communications, and similar facilities; and offsite construction
 1614 of utility extensions to the boundaries of the property.

1615 e. "Qualifying data center" means a data center for which
 1616 the Department of Economic Opportunity has certified that one or
 1617 more of the data center's owners, operators, users, or tenants,
 1618 individually, have made or will make a cumulative capital
 1619 investment of at least \$75 million.

1620 9.a. In addition to its existing audit and investigation
 1621 authority, the department may perform any additional financial
 1622 and technical audits and investigations, including examining the
 1623 accounts, books, and records of the applicant, which are
 1624 necessary to verify eligibility for the exemptions authorized by
 1625 this paragraph and to ensure compliance with this paragraph. The
 1626 Department of Economic Opportunity shall provide technical
 1627 assistance when requested by the department on any technical
 1628 audits or examinations performed pursuant to this subparagraph.

1629 b. If the department determines, as a result of an audit or
 1630 examination or from information received from the Department of
 1631 Economic Opportunity, that a certified entity received a tax
 1632 exemption pursuant to this paragraph to which it was not
 1633 entitled, the department may, in addition to the remedies
 1634 provided by this subsection, pursue recovery of such funds
 1635 pursuant to the laws and rules governing the assessment of
 1636 taxes.

1637 c. The Department of Economic Opportunity may revoke or
 1638 modify any written decision certifying eligibility for a tax

1639 exemption authorized under this paragraph if it discovers that
 1640 the tax exemption applicant submitted a false statement,
 1641 representation, or certification in any application, record,
 1642 report, plan, or other document filed in an attempt to receive
 1643 tax exemptions authorized under this paragraph. The Department
 1644 of Economic Opportunity shall immediately notify the department
 1645 of any revoked or modified orders affecting previously certified
 1646 tax exemptions.

1647 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
 1648 entity by this chapter do not inure to any transaction that is
 1649 otherwise taxable under this chapter when payment is made by a
 1650 representative or employee of the entity by any means,
 1651 including, but not limited to, cash, check, or credit card, even
 1652 when that representative or employee is subsequently reimbursed
 1653 by the entity. In addition, exemptions provided to any entity by
 1654 this subsection do not inure to any transaction that is
 1655 otherwise taxable under this chapter unless the entity has
 1656 obtained a sales tax exemption certificate from the department
 1657 or the entity obtains or provides other documentation as
 1658 required by the department. Eligible purchases or leases made
 1659 with such a certificate must be in strict compliance with this
 1660 subsection and departmental rules, and any person who makes an
 1661 exempt purchase with a certificate that is not in strict
 1662 compliance with this subsection and the rules is liable for and
 1663 shall pay the tax. The department may adopt rules to administer
 1664 this subsection.

1665 (n) Veterans' organizations.—

1666 1. There are exempt from the tax imposed by this chapter
 1667 transactions involving sales or leases to qualified veterans'
 1668 organizations and their auxiliaries when used in carrying on
 1669 their customary veterans' organization activities or sales of
 1670 food or drinks by qualified veterans' organizations in
 1671 connection with customary veterans' organization activities to
 1672 members of qualified veterans' organizations.

1673 2. As used in this paragraph, the term "veterans'
 1674 organizations" means nationally chartered or recognized
 1675 veterans' organizations, including, but not limited to, the
 1676 American Legion, Veterans of Foreign Wars of the United States,
 1677 Florida chapters of the Paralyzed Veterans of America, Catholic
 1678 War Veterans of the U.S.A., Jewish War Veterans of the U.S.A.,
 1679 and the Disabled American Veterans, Department of Florida, Inc.,
 1680 which hold current exemptions from federal income tax under s.
 1681 501(c)(4) or (19) of the Internal Revenue Code of 1986, as
 1682 amended.

1683 (kkk) Certain machinery and equipment.—

1684 1. Industrial machinery and equipment purchased by
 1685 eligible manufacturing businesses which is used at a fixed
 1686 location in within this state, ~~or a mixer drum affixed to a~~
 1687 ~~mixer truck which is used at any location within this state to~~
 1688 ~~mix, agitate, and transport freshly mixed concrete in a plastic~~
 1689 ~~state,~~ for the manufacture, processing, compounding, or
 1690 production of items of tangible personal property for sale is

1691 ~~shall be exempt from the tax imposed by this chapter. Parts and~~
 1692 ~~labor required to affix a mixer drum exempt under this paragraph~~
 1693 ~~to a mixer truck are also exempt.~~ If, at the time of purchase,
 1694 the purchaser furnishes the seller with a signed certificate
 1695 certifying the purchaser's entitlement to exemption pursuant to
 1696 this paragraph, the seller is not required to collect ~~is~~
 1697 ~~relieved of the responsibility for collecting the tax on the~~
 1698 sale of such items, and the department shall look solely to the
 1699 purchaser for recovery of the tax if it determines that the
 1700 purchaser was not entitled to the exemption.

1701 2. For purposes of this paragraph, the term:

1702 a. "Eligible manufacturing business" means any business
 1703 whose primary business activity at the location where the
 1704 industrial machinery and equipment is located is within the
 1705 industries classified under NAICS codes 31, 32, ~~and~~ 33, and
 1706 423930.

1707 b. "Eligible postharvest activity business" means a
 1708 business whose primary business activity, at the location where
 1709 the postharvest machinery and equipment is located, is within
 1710 the industries classified under NAICS code 115114.

1711 ~~c. As used in this subparagraph,~~ "NAICS" means those
 1712 classifications contained in the North American Industry
 1713 Classification System, as published in 2007 by the Office of
 1714 Management and Budget, Executive Office of the President.

1715 ~~d.~~ "Primary business activity" means an activity
 1716 representing more than 50 percent of the activities conducted at

1717 the location where the industrial machinery and equipment or
1718 postharvest machinery and equipment is located.

1719 e.e. "Industrial machinery and equipment" means tangible
1720 personal property or other property that has a depreciable life
1721 of 3 years or more and that is used as an integral part in the
1722 manufacturing, processing, compounding, or production of
1723 tangible personal property for sale. The term includes tangible
1724 personal property or other property that has a depreciable life
1725 of 3 years or more which is used as an integral part in the
1726 recycling of metals for sale. A building and its structural
1727 components are not industrial machinery and equipment unless the
1728 building or structural component is so closely related to the
1729 industrial machinery and equipment that it houses or supports
1730 that the building or structural component can be expected to be
1731 replaced when the machinery and equipment are replaced. Heating
1732 and air conditioning systems are not industrial machinery and
1733 equipment unless the sole justification for their installation
1734 is to meet the requirements of the production process, even
1735 though the system may provide incidental comfort to employees or
1736 serve, to an insubstantial degree, nonproduction activities. The
1737 term includes parts and accessories for industrial machinery and
1738 equipment only to the extent that the parts and accessories are
1739 purchased prior to the date the machinery and equipment are
1740 placed in service.

1741 f. "Postharvest activities" means services performed on
1742 crops, subsequent to their harvest, with the intent of preparing

1743 them for market or further processing. Postharvest activities
 1744 include, but are not limited to, crop cleaning, sun drying,
 1745 shelling, fumigating, curing, sorting, grading, packing, and
 1746 cooling.

1747 g. "Postharvest machinery and equipment" means tangible
 1748 personal property or other property with a depreciable life of 3
 1749 years or more which is used primarily for postharvest
 1750 activities. A building and its structural components are not
 1751 postharvest industrial machinery and equipment unless the
 1752 building or structural component is so closely related to the
 1753 postharvest machinery and equipment that it houses or supports
 1754 that the building or structural component can be expected to be
 1755 replaced when the postharvest machinery and equipment is
 1756 replaced. Heating and air conditioning systems are not
 1757 postharvest machinery and equipment unless the sole
 1758 justification for their installation is to meet the requirements
 1759 of the postharvest activities process, even though the system
 1760 may provide incidental comfort to employees or serve, to an
 1761 insubstantial degree, nonpostharvest activities.

1762 3. Postharvest machinery and equipment purchased by an
 1763 eligible postharvest activity business which is used at a fixed
 1764 location in this state is exempt from the tax imposed by this
 1765 chapter. All labor charges for the repair of, and parts and
 1766 materials used in the repair of and incorporated into, such
 1767 postharvest machinery and equipment are also exempt. If, at the
 1768 time of purchase, the purchaser furnishes the seller with a

1769 signed certificate certifying the purchaser's entitlement to
 1770 exemption pursuant to this subparagraph, the seller is not
 1771 required to collect the tax on the sale of such items, and the
 1772 department shall look solely to the purchaser for recovery of
 1773 the tax if it determines that the purchaser was not entitled to
 1774 the exemption.

1775 4.3- A mixer drum affixed to a mixer truck which is used
 1776 at any location in this state to mix, agitate, and transport
 1777 freshly mixed concrete in a plastic state for sale is exempt
 1778 from the tax imposed by this chapter. Parts and labor required
 1779 to affix a mixer drum exempt under this subparagraph to a mixer
 1780 truck are also exempt. If, at the time of purchase, the
 1781 purchaser furnishes the seller with a signed certificate
 1782 certifying the purchaser's entitlement to exemption pursuant to
 1783 this subparagraph, the seller is not required to collect the tax
 1784 on the sale of such items, and the department shall look solely
 1785 to the purchaser for recovery of the tax if it determines that
 1786 the purchaser was not entitled to the exemption. This
 1787 subparagraph paragraph is repealed April 30, 2017.

1788 Section 19. Paragraph (n) of subsection (1) and paragraph
 1789 (c) of subsection (2) of section 220.03, Florida Statutes, are
 1790 amended to read:

1791 220.03 Definitions.—

1792 (1) SPECIFIC TERMS.—When used in this code, and when not
 1793 otherwise distinctly expressed or manifestly incompatible with
 1794 the intent thereof, the following terms shall have the following

1795 meanings:

1796 (n) "Internal Revenue Code" means the United States
 1797 Internal Revenue Code of 1986, as amended and in effect on
 1798 January 1, 2016 ~~2015~~, except as provided in subsection (3).

1799 (2) DEFINITIONAL RULES.—When used in this code and neither
 1800 otherwise distinctly expressed nor manifestly incompatible with
 1801 the intent thereof:

1802 (c) Any term used in this code has the same meaning as
 1803 when used in a comparable context in the Internal Revenue Code
 1804 and other statutes of the United States relating to federal
 1805 income taxes, as such code and statutes are in effect on January
 1806 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the
 1807 meaning of a term shall be taken at the time the term is applied
 1808 under this code.

1809 Section 20. Paragraph (e) of subsection (1) of section
 1810 220.13, Florida Statutes, is amended to read:

1811 220.13 "Adjusted federal income" defined.—

1812 (1) The term "adjusted federal income" means an amount
 1813 equal to the taxpayer's taxable income as defined in subsection
 1814 (2), or such taxable income of more than one taxpayer as
 1815 provided in s. 220.131, for the taxable year, adjusted as
 1816 follows:

1817 (e) Adjustments related to federal acts.—Taxpayers shall
 1818 be required to make the adjustments prescribed in this paragraph
 1819 for Florida tax purposes with respect to certain tax benefits
 1820 received pursuant to the Economic Stimulus Act of 2008, the

1821 American Recovery and Reinvestment Act of 2009, the Small
 1822 Business Jobs Act of 2010, the Tax Relief, Unemployment
 1823 Insurance Reauthorization, and Job Creation Act of 2010, the
 1824 American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase
 1825 Prevention Act of 2014, and the Consolidated Appropriations Act
 1826 of 2016.

1827 1. There shall be added to such taxable income an amount
 1828 equal to 100 percent of any amount deducted for federal income
 1829 tax purposes as bonus depreciation for the taxable year pursuant
 1830 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
 1831 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
 1832 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.
 1833 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L.
 1834 No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113,
 1835 for property placed in service after December 31, 2007, and
 1836 before January 1, 2021 ~~2015~~. For the taxable year and for each
 1837 of the 6 subsequent taxable years, there shall be subtracted
 1838 from such taxable income an amount equal to one-seventh of the
 1839 amount by which taxable income was increased pursuant to this
 1840 subparagraph, notwithstanding any sale or other disposition of
 1841 the property that is the subject of the adjustments and
 1842 regardless of whether such property remains in service in the
 1843 hands of the taxpayer.

1844 2. There shall be added to such taxable income an amount
 1845 equal to 100 percent of any amount in excess of \$128,000
 1846 deducted for federal income tax purposes for the taxable year

1847 pursuant to s. 179 of the Internal Revenue Code of 1986, as
 1848 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.
 1849 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.
 1850 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.
 1851 No. 113-295, for taxable years beginning after December 31,
 1852 2007, and before January 1, 2015. For the taxable year and for
 1853 each of the 6 subsequent taxable years, there shall be
 1854 subtracted from such taxable income one-seventh of the amount by
 1855 which taxable income was increased pursuant to this
 1856 subparagraph, notwithstanding any sale or other disposition of
 1857 the property that is the subject of the adjustments and
 1858 regardless of whether such property remains in service in the
 1859 hands of the taxpayer.

1860 3. There shall be added to such taxable income an amount
 1861 equal to the amount of deferred income not included in such
 1862 taxable income pursuant to s. 108(i)(1) of the Internal Revenue
 1863 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There
 1864 shall be subtracted from such taxable income an amount equal to
 1865 the amount of deferred income included in such taxable income
 1866 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,
 1867 as amended by s. 1231 of Pub. L. No. 111-5.

1868 4. Subtractions available under this paragraph may be
 1869 transferred to the surviving or acquiring entity following a
 1870 merger or acquisition and used in the same manner and with the
 1871 same limitations as specified by this paragraph.

1872 5. The additions and subtractions specified in this

1873 paragraph are intended to adjust taxable income for Florida tax
 1874 purposes, and, notwithstanding any other provision of this code,
 1875 such additions and subtractions shall be permitted to change a
 1876 taxpayer's net operating loss for Florida tax purposes.

1877 Section 21. The amendments made by this act to s.
 1878 220.03(1)(n) and (2)(c), Florida Statutes, and s. 220.13(1)(e),
 1879 Florida Statutes, are effective upon becoming law and shall
 1880 operate retroactively to January 1, 2016.

1881 Section 22. (1) The Department of Revenue is authorized,
 1882 and all conditions are deemed to be met, to adopt emergency
 1883 rules pursuant to s. 120.54(4), Florida Statutes, for the
 1884 purpose of implementing the amendments made by this act to s.
 1885 220.03(1)(n) and (2)(c), Florida Statutes, and s. 220.13(1)(e),
 1886 Florida Statutes.

1887 (2) Notwithstanding any other provision of law, emergency
 1888 rules adopted pursuant to subsection (1) are effective for 6
 1889 months after adoption and may be renewed during the pendency of
 1890 procedures to adopt permanent rules addressing the subject of
 1891 the emergency rules.

1892 (3) This section expires January 1, 2020.

1893 Section 23. Paragraph (f) of subsection (2) of section
 1894 220.1845, Florida Statutes, is amended to read:

1895 220.1845 Contaminated site rehabilitation tax credit.—

1896 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

1897 (f) The total amount of the tax credits which may be
 1898 granted under this section is \$21.6 million in the 2015-2016

1899 fiscal year, \$8 million in the 2016-2017 fiscal year, and \$5
 1900 million annually thereafter.

1901 Section 24. Paragraph (c) of subsection (1) and subsection
 1902 (2) of section 220.192, Florida Statutes, are amended to read:

1903 220.192 Renewable energy technologies investment tax
 1904 credit.—

1905 (1) DEFINITIONS.—For purposes of this section, the term:

1906 (c) "Eligible costs" means 75 percent of all capital
 1907 costs, operation and maintenance costs, and research and
 1908 development costs incurred between July 1, 2012, and June 30,
 1909 2017 ~~2016~~, not to exceed \$1 million per state fiscal year for
 1910 each taxpayer and up to a limit of \$10 million per state fiscal
 1911 year for all taxpayers, in connection with an investment in the
 1912 production, storage, and distribution of biodiesel (B10-B100),
 1913 ethanol (E10-E100), and other renewable fuel in the state,
 1914 including the costs of constructing, installing, and equipping
 1915 such technologies in the state. Gasoline fueling station pump
 1916 retrofits for biodiesel (B10-B100), ethanol (E10-E100), and
 1917 other renewable fuel distribution qualify as an eligible cost
 1918 under this section.

1919 (2) TAX CREDIT.—For tax years beginning on or after
 1920 January 1, 2013, a credit against the tax imposed by this
 1921 chapter shall be granted in an amount equal to the eligible
 1922 costs. Credits may be used in tax years beginning January 1,
 1923 2013, and ending December 31, 2017 ~~2016~~, after which the credit
 1924 shall expire. If the credit is not fully used in any one tax

1925 year because of insufficient tax liability on the part of the
 1926 corporation, the unused amount may be carried forward and used
 1927 in tax years beginning January 1, 2013, and ending December 31,
 1928 2019 ~~2018~~, after which the credit carryover expires and may not
 1929 be used. A taxpayer that files a consolidated return in this
 1930 state as a member of an affiliated group under s. 220.131(1) may
 1931 be allowed the credit on a consolidated return basis up to the
 1932 amount of tax imposed upon the consolidated group. Any eligible
 1933 cost for which a credit is claimed and which is deducted or
 1934 otherwise reduces federal taxable income shall be added back in
 1935 computing adjusted federal income under s. 220.13.

1936 Section 25. Paragraph (e) of subsection (2), paragraphs
 1937 (b) and (g) of subsection (3), and subsection (8) of section
 1938 220.193, Florida Statutes, are amended to read:

1939 220.193 Florida renewable energy production credit.—

1940 (2) As used in this section, the term:

1941 (e) "New facility" means a Florida renewable energy
 1942 facility that is operationally placed in service after May 1,
 1943 2006. The term includes a Florida renewable energy facility that
 1944 has had an expansion operationally placed in service after May
 1945 1, 2006, and whose cost exceeded 50 percent of the assessed
 1946 value of the facility immediately before the expansion, and
 1947 includes any nonpublic waste-to-energy facility certified
 1948 pursuant to ss. 403.501-403.518.

1949 (3) An annual credit against the tax imposed by this
 1950 section shall be allowed to a taxpayer, based on the taxpayer's

1951 production and sale of electricity from a new or expanded
 1952 Florida renewable energy facility. For a new facility, the
 1953 credit shall be based on the taxpayer's sale of the facility's
 1954 entire electrical production. For an expanded facility, the
 1955 credit shall be based on the increases in the facility's
 1956 electrical production that are achieved after May 1, 2012.

1957 (b) The credit may be claimed for electricity produced and
 1958 sold on or after January 1, 2013. ~~Beginning in 2014 and~~
 1959 ~~continuing until 2017,~~ Each taxpayer claiming a credit under
 1960 this section must apply to the Department of Agriculture and
 1961 Consumer Services by the date established by the Department of
 1962 Agriculture and Consumer Services for an allocation of available
 1963 credits for that year. The application form shall be adopted by
 1964 rule of the Department of Agriculture and Consumer Services in
 1965 consultation with the commission. The application form shall, at
 1966 a minimum, require a sworn affidavit from each taxpayer
 1967 certifying the increase in production and sales that form the
 1968 basis of the application and certifying that all information
 1969 contained in the application is true and correct.

1970 (g) ~~Notwithstanding any other provision of this section,~~
 1971 ~~credits for the production and sale of electricity from a new or~~
 1972 ~~expanded Florida renewable energy facility may be earned between~~
 1973 ~~January 1, 2013, and June 30, 2016.~~ The combined total amount of
 1974 tax credits which may be granted for all taxpayers under this
 1975 section is limited to ~~\$5 million in state fiscal year 2012-2013~~
 1976 ~~and~~ \$10 million per state fiscal year in state fiscal years

1977 ~~2013-2014 through~~ 2016-2017 and 2017-2018. If the annual tax
 1978 credit authorization amount is not exhausted by allocations of
 1979 credits within that particular state fiscal year, any authorized
 1980 but unallocated credit amounts may be used to grant credits that
 1981 were earned pursuant to s. 220.192 but unallocated due to a lack
 1982 of authorized funds.

1983 ~~(8) This section shall take effect upon becoming law and~~
 1984 ~~shall apply to tax years beginning on and after January 1, 2013.~~

1985 Section 26. Paragraph (e) of subsection (2) of section
 1986 220.196, Florida Statutes, is amended to read:

1987 220.196 Research and development tax credit.—

1988 (2) TAX CREDIT.—

1989 (e) The combined total amount of tax credits which may be
 1990 granted to all business enterprises under this section during
 1991 any calendar year is \$9 million, except that the total amount
 1992 that may be granted ~~awarded~~ in the 2016 calendar year is \$23
 1993 million and the total amount that may be granted in the 2017
 1994 calendar year is \$15 million. Applications may be filed with the
 1995 department on or after March 20 and before March 27 for
 1996 qualified research expenses incurred within the preceding
 1997 calendar year. If the total credits for all applicants exceed
 1998 the maximum amount allowed under this paragraph, the credits
 1999 shall be allocated on a prorated basis.

2000 Section 27. Section 220.197, Florida Statutes, is created
 2001 to read:

2002 220.197 Plastic Bag Reduction Pilot Program. --

2003 (1) Notwithstanding s. 403.7033, there is created within
 2004 the department the Plastic Bag Reduction Pilot Program. The
 2005 purpose of the pilot program is to incentivize the reduction in
 2006 the use of plastic bags in Florida by providing a corporate
 2007 income tax credit to businesses in the state.

2008 (2) DEFINITIONS.— As used in this section, the term:

2009 (a) "Base amount" means the number of plastic bags
 2010 purchased by a business and used by the business's customers at
 2011 a location in a coastal county in this state in calendar year
 2012 2016.

2013 (b) "Business" means any corporation as defined in s.
 2014 220.03 which provides plastic bags to its customers as a result
 2015 of the sale of a product.

2016 (c) "Plastic bag" means any plastic disposable carryout
 2017 bag which a business provides to its customers as a result of
 2018 the sale of a product. The term does not include:

2019 1. A bag that is designed and manufactured for multiple
 2020 reuse that has a minimum lifetime of at least 100 uses, can
 2021 carry over 20 pounds, is machine washable, and, if contains
 2022 plastic, is at least 2.25 mils thick;

2023 2. Bags sold in packages containing multiple bags intended
 2024 for use as garbage, pet waste, or yard waste bags;

2025 3. A bag provided by a pharmacy for a prescription
 2026 purchase;

2027 4. A bag provided to contain an unwrapped food item;

2028 5. A bag used to contain live animals, such as fish or

2029 insects sold in pet stores; and
 2030 6. A bag that is designed and manufactured to be placed
 2031 over articles of clothing on a hanger.
 2032 (d) "Coastal county" means a county that abuts or borders
 2033 the Gulf of Mexico or the Atlantic Ocean and has a population
 2034 greater than 1 million.
 2035 (3) TAX CREDIT.—
 2036 (a) As provided in this section, a business is eligible
 2037 for a credit against the tax imposed by this chapter if it:
 2038 1. Is located in a coastal county.
 2039 2. Has a base amount of at least 500,000 bags for
 2040 locations in coastal counties in calendar year 2016.
 2041 3. Demonstrates a reduction of at least 5 percent from the
 2042 base amount at locations in a coastal county as of the end of
 2043 calendar year 2018.
 2044 (b) Applications may be filed with the department on or
 2045 after March 20 and before March 27 of calendar year 2019.
 2046 (c) The department shall certify:
 2047 1. The plastic bag purchases that qualify for the credit;
 2048 2. Each eligible applicant's base amount in its coastal
 2049 county locations in calendar year 2016;
 2050 3. The total reduction in the number of plastic bags
 2051 purchased and used in coastal county locations for all eligible
 2052 applicants from calendar years 2016 through 2018; and
 2053 4. Each eligible applicant's share of the total reduction
 2054 as described in subparagraph 3.

2055 (d) The credit for an eligible applicant shall be equal to
 2056 the eligible applicant's share of the total reduction as
 2057 described in subparagraph (c)3. multiplied by \$5 million. The
 2058 combined total amount of tax credits which may be granted to all
 2059 eligible applicants under this section is \$5 million, not to
 2060 exceed \$1 million per eligible applicant. If the total credits
 2061 for all eligible applicants exceed the maximum amount allowed
 2062 under this paragraph, the credits shall be allocated on a
 2063 prorated basis.

2064 (4) RULES.- The department may adopt rules to administer
 2065 this section, including, but not limited to, rules prescribing
 2066 forms and application procedures and dates, and may establish
 2067 guidelines for making an affirmative showing of qualification
 2068 for a credit and any evidence needed to substantiate a claim for
 2069 credit under this section.

2070 (5) This section is repealed January 1, 2020, unless
 2071 reviewed and reenacted by the Legislature before that date.

2072 Section 28. Effective upon this act becoming a law and
 2073 applicable to taxable years beginning on or after January 1,
 2074 2016, section 220.222, Florida Statutes, is amended to read:

2075 220.222 Returns; time and place for filing.-

2076 (1) (a) Returns required by this code shall be filed with
 2077 the office of the department in Leon County or at such other
 2078 place as the department may by regulation prescribe. All returns
 2079 required for a DISC (Domestic International Sales Corporation)
 2080 under paragraph 6011(c) (2) of the Internal Revenue Code shall be

2081 filed on or before the 1st day of the 10th month following the
 2082 close of the taxable year; all partnership information returns
 2083 shall be filed on or before the 1st day of the 4th ~~5th~~ month
 2084 following the close of the taxable year; and all other returns
 2085 shall be filed on or before the 1st day of the 5th ~~4th~~ month
 2086 following the close of the taxable year or the 15th day
 2087 following the due date, without extension, for the filing of the
 2088 related federal return for the taxable year, unless under
 2089 subsection (2) one or more extensions of time, not to exceed 6
 2090 months in the aggregate, for any such filing is granted.

2091 (b) Notwithstanding paragraph (a), for taxable years
 2092 beginning before January 1, 2026, returns of taxpayers with a
 2093 taxable year ending on June 30 shall be filed on or before the
 2094 1st day of the 4th month following the close of the taxable year
 2095 or the 15th day following the due date, without extension, for
 2096 the filing of the related federal return for the taxable year,
 2097 unless under subsection (2) one or more extensions of time for
 2098 any such filing is granted.

2099 (2) (a) When a taxpayer has been granted an extension or
 2100 extensions of time within which to file its federal income tax
 2101 return for any taxable year, and if the requirements of s.
 2102 220.32 are met, the filing of a request for such extension or
 2103 extensions with the department shall automatically extend the
 2104 due date of the return required under this code until ~~15 days~~
 2105 ~~after the expiration of the federal extension or until the~~
 2106 expiration of 6 months from the original due date, ~~whichever~~

2107 ~~first occurs.~~

2108 (b) The department may grant an extension or extensions of
 2109 time for the filing of any return required under this code upon
 2110 receiving a prior request therefor if good cause for an
 2111 extension is shown. However, the aggregate extensions of time
 2112 under paragraph ~~paragraphs~~ (a) and this paragraph ~~(b)~~ shall not
 2113 exceed 6 months. An ~~No~~ extension granted under this paragraph is
 2114 not shall be valid unless the taxpayer complies with ~~the~~
 2115 ~~requirements of~~ s. 220.32.

2116 (c) For purposes of this subsection, a taxpayer is not in
 2117 compliance with ~~the requirements of~~ s. 220.32 if the taxpayer
 2118 underpays the required payment by more than the greater of
 2119 \$2,000 or 30 percent of the tax shown on the return when filed.

2120 (d) For taxable years beginning before January 1, 2026,
 2121 the 6-month time period in paragraphs (a) and (b) shall be 7
 2122 months for taxpayers with a taxable year ending June 30 and
 2123 shall be 5 months for taxpayers with a taxable year ending
 2124 December 31.

2125 Section 29. Effective upon this act becoming a law and
 2126 applicable to taxable years beginning on or after January 1,
 2127 2017, section 220.241, Florida Statutes, is amended to read:

2128 220.241 Declaration; time for filing.—

2129 (1) A declaration of estimated tax under this code shall
 2130 be filed before the 1st day of the 6th ~~5th~~ month of each taxable
 2131 year, except that if the minimum tax requirement of s. 220.24(1)
 2132 is first met:

2133 ~~(a)(1)~~ After the 3rd month and before the 6th month of the
 2134 taxable year, the declaration shall be filed before the 1st day
 2135 of the 7th month;

2136 ~~(b)(2)~~ After the 5th month and before the 9th month of the
 2137 taxable year, the declaration shall be filed before the 1st day
 2138 of the 10th month; or

2139 ~~(c)(3)~~ After the 8th month and before the 12th month of
 2140 the taxable year, the declaration shall be filed for the taxable
 2141 year before the 1st day of the succeeding taxable year.

2142 (2) Notwithstanding subsection (1), for taxable years
 2143 beginning before January 1, 2026, taxpayers with a taxable year
 2144 ending on June 30 shall file declarations before the 1st day of
 2145 the 5th month of each taxable year, unless paragraph (1)(a),
 2146 paragraph (1)(b), or paragraph (1)(c) applies.

2147 Section 30. Effective upon this act becoming a law and
 2148 applicable to taxable years beginning on or after January 1,
 2149 2017, subsection (1) of section 220.33, Florida Statutes, is
 2150 amended to read:

2151 220.33 Payments of estimated tax.—A taxpayer required to
 2152 file a declaration of estimated tax pursuant to s. 220.24 shall
 2153 pay such estimated tax as follows:

2154 (1) If the declaration is required to be filed before the
 2155 1st day of the 6th ~~5th~~ month of the taxable year, the estimated
 2156 tax shall be paid in four equal installments. The first
 2157 installment shall be paid at the time of the required filing of
 2158 the declaration; the second and third installments shall be paid

2159 before the 1st day of the 7th month and before the 1st day of
 2160 the 10th month of the taxable year, respectively; and the fourth
 2161 installment shall be paid before the 1st day of the next taxable
 2162 year.

2163 Section 31. Effective upon this act becoming a law and
 2164 applicable to taxable years beginning on or after January 1,
 2165 2017, paragraph (c) of subsection (2) of section 220.34, Florida
 2166 Statutes, is amended to read:

2167 220.34 Special rules relating to estimated tax.—

2168 (2) No interest or penalty shall be due or paid with
 2169 respect to a failure to pay estimated taxes except the
 2170 following:

2171 (c) The period of the underpayment for which interest and
 2172 penalties apply shall commence on the date the installment was
 2173 required to be paid, determined without regard to any extensions
 2174 of time, and shall terminate on the earlier of the following
 2175 dates:

2176 1. The first day of the 5th ~~fourth~~ month following the
 2177 close of the taxable year;

2178 2. For taxable years beginning before January 1, 2026, for
 2179 taxpayers with a taxable year ending June 30, the first day of
 2180 the 4th month following the close of the taxable year; or

2181 ~~3.2.~~ With respect to any portion of the underpayment, the
 2182 date on which such portion is paid.

2183
 2184 For purposes of this paragraph, a payment of estimated tax on

2185 any installment date shall be considered a payment of any
 2186 previous underpayment only to the extent such payment exceeds
 2187 the amount of the installment determined under subparagraph
 2188 (b)1. for such installment date.

2189 Section 32. Subsection (4) of section 376.30781, Florida
 2190 Statutes, is amended to read:

2191 376.30781 Tax credits for rehabilitation of drycleaning-
 2192 solvent-contaminated sites and brownfield sites in designated
 2193 brownfield areas; application process; rulemaking authority;
 2194 revocation authority.—

2195 (4) The Department of Environmental Protection is
 2196 responsible for allocating the tax credits provided for in s.
 2197 220.1845, which may not exceed a total of \$21.6 million in tax
 2198 credits in the 2015-2016 fiscal year, \$8 million in tax credits
 2199 in the 2016-2017 fiscal year, and \$5 million in tax credits
 2200 annually thereafter.

2201 Section 33. Subsections (1) and (2) of section 561.121,
 2202 Florida Statutes, are amended to read:

2203 561.121 Deposit of revenue.—

2204 (1) All state funds collected pursuant to ss. 563.05,
 2205 564.06, 565.02(9), and 565.12 shall be paid into the State
 2206 Treasury and disbursed in the following manner:

2207 (a) Two percent of monthly collections of the excise taxes
 2208 on alcoholic beverages established in ss. 563.05, 564.06, and
 2209 565.12 and the tax on alcoholic beverages, cigarettes, and other
 2210 tobacco products established in s. 565.02(9) shall be deposited

2211 into the Alcoholic Beverage and Tobacco Trust Fund to meet the
 2212 division's appropriation for the state fiscal year.

2213 (b) The remainder of the funds collected pursuant to ss.
 2214 563.05, 564.06, and 565.12 and the tax on alcoholic beverages,
 2215 cigarettes, and other tobacco products established in s.
 2216 565.02(9) shall be credited to the General Revenue Fund.

2217 (2) The unencumbered balance in the Alcoholic Beverage and
 2218 Tobacco Trust Fund at the close of each fiscal year may not
 2219 exceed \$2 million. These funds shall be held in reserve for use
 2220 in the event that trust fund revenues are unable to meet the
 2221 division's appropriation for the next fiscal year. In the event
 2222 of a revenue shortfall, these funds shall be spent pursuant to
 2223 subsection (3). Notwithstanding subsection (1), if the
 2224 unencumbered balance on June 30 in any fiscal year is less than
 2225 \$2 million, the department is authorized to retain the
 2226 difference between the June 30 unencumbered balance in the trust
 2227 fund and \$2 million from the July collections of state funds
 2228 collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax
 2229 on alcoholic beverages, cigarettes, and other tobacco products
 2230 established in s. 565.02(9). Any unencumbered funds in excess of
 2231 reserve funds shall be transferred unallocated to the General
 2232 Revenue Fund by August 31 of the next fiscal year.

2233 Section 34. Subsection (4) of section 564.06, Florida
 2234 Statutes, is amended to read:

2235 564.06 Excise taxes on wines and beverages.—

2236 (4) As to cider, which is made from the normal alcoholic

2237 fermentation of the juice of sound, ripe apples or pears,
 2238 including but not limited to flavored, sparkling, or carbonated
 2239 cider and cider made from condensed apple or pear must, that
 2240 contain not less than one-half of 1 percent of alcohol by volume
 2241 and not more than 7 percent of alcohol by volume, there shall be
 2242 paid by all manufacturers and distributors a tax at the rate of
 2243 \$.89 per gallon. With the sole exception of the excise tax rate,
 2244 cider shall be considered wine and shall be subject to the
 2245 provisions of this chapter.

2246 Section 35. Subsection (9) of section 565.02, Florida
 2247 Statutes, is amended to read:

2248 565.02 License fees; vendors; clubs; caterers; and
 2249 others.—

2250 (9) (a) As used in this subsection, the term:

2251 1. "Annual capacity" means an amount equal to the number
 2252 of lower berths on a vessel multiplied by the number of
 2253 embarkations of that vessel during a calendar year.

2254 2. "Base rate" means an amount equal to the total taxes
 2255 and surcharges paid by all permittees pursuant to the Beverage
 2256 Law and chapter 210 for sales of alcoholic beverages,
 2257 cigarettes, and other tobacco products taking place between
 2258 January 1, 2015, and December 31, 2015, inclusive, divided by
 2259 the sum of the annual capacities of all vessels permitted
 2260 pursuant to former s. 565.02(9), Florida Statutes 2015, for
 2261 calendar year 2015.

2262 3. "Embarkation" means an instance in which a vessel

2263 departs from a port in this state.

2264 4. "Lower berth" means a bed that is:

2265 a. Affixed to a vessel;

2266 b. Not located above another bed in the same cabin; and

2267 c. Located in a cabin not in use by employees of the
 2268 operator of the vessel or its contractors.

2269 5. "Quarterly capacity" means an amount equal to the
 2270 number of lower berths on a vessel multiplied by the number of
 2271 embarkations of that vessel during a calendar quarter.

2272 (b) It is the finding of the Legislature that passenger
 2273 vessels engaged exclusively in foreign commerce are susceptible
 2274 to a distinct and separate classification for purposes of the
 2275 sale of alcoholic beverages, cigarettes, and other tobacco
 2276 products under the Beverage Law and chapter 210.

2277 (c) Upon the filing of an application and payment of an
 2278 annual fee of \$1,100, the director is authorized to issue a
 2279 permit authorizing the operator, or, if applicable, his or her
 2280 concessionaire, of a passenger vessel which has cabin-berth
 2281 capacity for at least 75 passengers, and which is engaged
 2282 exclusively in foreign commerce, to sell alcoholic beverages,
 2283 cigarettes, and other tobacco products on the vessel for
 2284 consumption on board only:

2285 1. (a) For no more than ~~During a period not in excess of 24~~
 2286 hours before ~~prior to~~ departure while the vessel is moored at a
 2287 dock or wharf in a port of this state; or

2288 2. (b) At any time while the vessel is located in Florida

2289 territorial waters and is in transit to or from international
 2290 waters.

2291
 2292 One such permit shall be required for each such vessel and shall
 2293 name the vessel for which it is issued. No license shall be
 2294 required or tax levied by any municipality or county for the
 2295 privilege of selling beverages, cigarettes, or other tobacco
 2296 products for consumption on board such vessels. The beverages,
 2297 cigarettes, or other tobacco products so sold may be purchased
 2298 outside the state by the permittee, and the same shall not be
 2299 considered as imported for the purposes of s. 561.14(3) solely
 2300 because of such sale. The permittee is not required to obtain
 2301 its beverages, cigarettes, or other tobacco products from
 2302 licensees under the Beverage Law or chapter 210. Each permittee,
 2303 ~~but it~~ shall keep a strict account of the quarterly capacity of
 2304 each of its vessels ~~all such beverages sold within this state~~
 2305 and shall make quarterly ~~monthly~~ reports to the division on
 2306 forms prepared and furnished by the division. ~~A permittee who~~
 2307 ~~sells on board the vessel beverages withdrawn from United States~~
 2308 ~~Bureau of Customs and Border Protection bonded storage on board~~
 2309 ~~the vessel may satisfy such accounting requirement by supplying~~
 2310 ~~the division with copies of the appropriate United States Bureau~~
 2311 ~~of Customs and Border Protection forms evidencing such~~
 2312 ~~withdrawals as importations under United States customs laws.~~

2313 (d) Each Such permittee shall pay to the state a ~~an~~ excise
 2314 tax for beverages, cigarettes, and other tobacco products sold

2315 pursuant to this subsection in an amount equal to the base rate
 2316 multiplied by the permittee's quarterly capacity during the
 2317 calendar quarter, less any tax or surcharge already paid by a
 2318 licensed manufacturer or distributor pursuant to the Beverage
 2319 Law or chapter 210 on beverages, cigarettes, and other tobacco
 2320 products sold by the permittee pursuant to this subsection
 2321 during the quarter for which tax is due ~~section, if such excise~~
 2322 ~~tax has not previously been paid, in an amount equal to the tax~~
 2323 ~~which would be required to be paid on such sales by a licensed~~
 2324 ~~manufacturer or distributor.~~

2325 (e) A vendor holding such permit shall pay the tax
 2326 quarterly ~~monthly~~ to the division at the same time he or she
 2327 furnishes the required report. Such report shall be filed on or
 2328 before the 15th day of each calendar quarter ~~month~~ for the
 2329 quarterly capacity sales ~~occurring~~ during the previous calendar
 2330 quarter ~~month~~.

2331 (f) No later than August 1, 2016, each permittee shall
 2332 report the annual capacity for each of its vessels for calendar
 2333 year 2015 to the division on forms prepared and furnished by the
 2334 division. No later than September 1, 2016, the division shall
 2335 calculate the base rate and report it to each permittee. The
 2336 base rate shall also be published in the Florida Administrative
 2337 Register and on the department's website.

2338 (g) Revenues collected pursuant to this subsection shall
 2339 be distributed pursuant to s. 561.121(1).

2340 Section 36. Subsection (1) of section 951.22, Florida

2341 Statutes, is amended to read:

2342 951.22 County detention facilities; contraband articles.—

2343 (1) It is unlawful, except through regular channels as
 2344 duly authorized by the sheriff or officer in charge, to
 2345 introduce into or possess upon the grounds of any county
 2346 detention facility as defined in s. 951.23 or to give to or
 2347 receive from any inmate of any such facility wherever said
 2348 inmate is located at the time or to take or to attempt to take
 2349 or send therefrom any of the following articles which are hereby
 2350 declared to be contraband for the purposes of this act, to wit:
 2351 Any written or recorded communication; any currency or coin; any
 2352 article of food or clothing; any tobacco products as defined in
 2353 s. 210.25(12) ~~210.25(11)~~; any cigarette as defined in s.
 2354 210.01(1); any cigar; any intoxicating beverage or beverage
 2355 which causes or may cause an intoxicating effect; any narcotic,
 2356 hypnotic, or excitative drug or drug of any kind or nature,
 2357 including nasal inhalators, sleeping pills, barbiturates, and
 2358 controlled substances as defined in s. 893.02(4); any firearm or
 2359 any instrumentality customarily used or which is intended to be
 2360 used as a dangerous weapon; and any instrumentality of any
 2361 nature that may be or is intended to be used as an aid in
 2362 effecting or attempting to effect an escape from a county
 2363 facility.

2364 Section 37. Clothing, school supplies, personal computers,
 2365 and personal computer-related accessories; sales tax holiday.—

2366 (1) The tax levied under chapter 212, Florida Statutes,

2367 may not be collected during the period from 12:01 a.m. on August
 2368 5, 2016, through 11:59 p.m. on August 14, 2016, on the retail
 2369 sale of:

2370 (a) Clothing, wallets, or bags, including handbags,
 2371 backpacks, fanny packs, and diaper bags, but excluding
 2372 briefcases, suitcases, and other garment bags, having a sales
 2373 price of \$100 or less per item. As used in this paragraph, the
 2374 term "clothing" means:

2375 1. Any article of wearing apparel intended to be worn on
 2376 or about the human body, excluding watches, watchbands, jewelry,
 2377 umbrellas, and handkerchiefs; and

2378 2. All footwear, excluding skis, swim fins, roller blades,
 2379 and skates.

2380 (b) School supplies having a sales price of \$15 or less
 2381 per item. As used in this paragraph, the term "school supplies"
 2382 means pens, pencils, erasers, crayons, notebooks, notebook
 2383 filler paper, legal pads, binders, lunch boxes, construction
 2384 paper, markers, folders, poster board, composition books, poster
 2385 paper, scissors, cellophane tape, glue or paste, rulers,
 2386 computer disks, protractors, compasses, and calculators.

2387 (2) The tax levied under chapter 212, Florida
 2388 Statutes, may not be collected during the period from 12:01 a.m.
 2389 on August 5, 2016, through 11:59 p.m. on August 14, 2016, on the
 2390 first \$750 of the sales price of personal computers or personal
 2391 computer-related accessories purchased for noncommercial home or
 2392 personal use. As used in this subsection, the term:

2393 (a) "Personal computers" includes electronic book readers,
 2394 laptops, desktops, handhelds, tablets, or tower computers. The
 2395 term does not include cellular telephones, video game consoles,
 2396 digital media receivers, or devices that are not primarily
 2397 designed to process data.

2398 (b) "Personal computer-related accessories" includes
 2399 keyboards, mice, personal digital assistants, monitors, other
 2400 peripheral devices, modems, routers, and nonrecreational
 2401 software, regardless of whether the accessories are used in
 2402 association with a personal computer base unit. The term does
 2403 not include furniture or systems, devices, software, or
 2404 peripherals that are designed or intended primarily for
 2405 recreational use.

2406 (c) "Monitors" does not include devices that include a
 2407 television tuner.

2408 (3) The tax exemptions provided in this section do not
 2409 apply to sales within a theme park or entertainment complex as
 2410 defined in s. 509.013(9), Florida Statutes, within a public
 2411 lodging establishment as defined in s. 509.013(4), Florida
 2412 Statutes, or within an airport as defined in s. 330.27(2),
 2413 Florida Statutes.

2414 (4) The Department of Revenue may, and all conditions are
 2415 deemed met to, adopt emergency rules pursuant to s. 120.54(4),
 2416 Florida Statutes, to administer this section.

2417 (5) For the 2016-2017 fiscal year, the sum of \$229,982 in
 2418 nonrecurring funds is appropriated from the General Revenue Fund

2419 to the Department of Revenue for the purpose of implementing
 2420 this section.

2421 Section 38. Small business Saturday sales tax holiday.-

2422 (1) As used in this section, the term "small business"
 2423 means a dealer, as defined in s. 212.06, Florida Statutes, that
 2424 registered with the Department of Revenue and began operation no
 2425 later than January 11, 2016, and that owed and remitted to the
 2426 Department of Revenue less than \$200,000 in total tax under
 2427 chapter 212, Florida Statutes, for the 1-year period ending
 2428 September 30, 2016. If the dealer has not been in operation for
 2429 a 1-year period as of September 30, 2016, the dealer must have
 2430 owed and remitted less than \$200,000 in total tax under chapter
 2431 212, Florida Statutes, for the period beginning on the day that
 2432 the dealer began operation and ending September 30, 2016, in
 2433 order to qualify as a small business under this section. If the
 2434 dealer is eligible to file a consolidated return pursuant to s.
 2435 212.11(1)(e), Florida Statutes, the total tax under chapter 212,
 2436 Florida Statutes, owed and remitted from all of the dealer's
 2437 places of business must be less than \$200,000 for the applicable
 2438 period ending September 30, 2016.

2439 (2) The tax levied under chapter 212, Florida Statutes,
 2440 may not be collected by a small business during the period from
 2441 12:01 a.m. on November 26, 2016, through 11:59 p.m. on November
 2442 26, 2016, on the retail sale, as defined in s. 212.02(14),
 2443 Florida Statutes, of any item or article of tangible personal
 2444 property, as defined in s. 212.02(19), Florida Statutes, having

2445 a sales price of \$1,000 or less per item.

2446 (3) The Department of Revenue may, and all conditions are
 2447 deemed to be met to, adopt emergency rules pursuant to ss.
 2448 120.536(1) and 120.54, Florida Statutes, to administer this
 2449 section.

2450 Section 39. Hunting and fishing sales tax holiday.—

2451 (1) The tax levied under chapter 212, Florida Statutes,
 2452 may not be collected during the period from 12:01 a.m. on August
 2453 20, 2016, through 11:59 p.m. on August 20, 2016, on the retail
 2454 sale, as defined in s. 212.02(14), Florida Statutes, of:

2455 (a) Firearms. For purposes of this section, the term
 2456 "firearms" means rifles, shotguns, spearguns, crossbows, and
 2457 bows. The term does not include destructive devices as defined
 2458 in s. 790.001(4), Florida Statutes.

2459 (b) Ammunition for firearms.

2460 (c) Camping tents.

2461 (d) Fishing supplies. For purposes of this section, the
 2462 term "fishing supplies" means rods, reels, bait, and fishing
 2463 tackle. The term does not include supplies used for commercial
 2464 fishing purposes.

2465 (2) The tax exemptions provided in this section do not
 2466 apply to sales within a theme park or entertainment complex as
 2467 defined in s. 509.013(9), Florida Statutes, within a public
 2468 lodging establishment as defined in s. 509.013(4), Florida
 2469 Statutes, or within an airport as defined in s. 330.27(2),
 2470 Florida Statutes.

2471 (3) The Department of Revenue may, and all conditions are
 2472 deemed to be met to, adopt emergency rules pursuant to ss.
 2473 120.536(1) and 120.54, Florida Statutes, to administer this
 2474 section.

2475 (4) For the 2016-2017 fiscal year, the sum of \$91,470 in
 2476 nonrecurring funds is appropriated from the General Revenue Fund
 2477 to the Department of Revenue for the purpose of implementing
 2478 this section.

2479 Section 40. Technology sales tax holiday.-

2480 (1) The tax levied under chapter 212, Florida Statutes,
 2481 may not be collected during the period from 12:01 a.m. on April
 2482 22, 2017, through 11:59 p.m. on April 22, 2017, on the first
 2483 \$1,000 of the sales price of personal computers or personal
 2484 computer-related accessories. For purposes of this subsection,
 2485 the term:

2486 (a) "Personal computers" includes electronic book readers,
 2487 laptops, desktops, handhelds, tablets, cellular telephones, or
 2488 tower computers. The term does not include video game consoles,
 2489 digital media receivers, or devices that are not primarily
 2490 designed to process data.

2491 (b) "Personal computer-related accessories" includes
 2492 keyboards, mice, personal digital assistants, monitors, other
 2493 peripheral devices, modems, routers, and nonrecreational
 2494 software, regardless of whether the accessories are used in
 2495 association with a personal computer base unit. The term does
 2496 not include furniture or systems, devices, software, or

2497 peripherals that are designed or intended primarily for
 2498 recreational use.

2499 (c) "Monitors" does not include devices that include a
 2500 television tuner.

2501 (2) The tax exemptions provided in this section do not
 2502 apply to sales within a theme park or entertainment complex as
 2503 defined in s. 509.013(9), Florida Statutes, within a public
 2504 lodging establishment as defined in s. 509.013(4), Florida
 2505 Statutes, or within an airport as defined in s. 330.27(2),
 2506 Florida Statutes.

2507 (3) The Department of Revenue may, and all conditions are
 2508 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
 2509 and 120.54, Florida Statutes, to administer this section.

2510 (4) For the 2016-2017 fiscal year, the sum of \$104,937 in
 2511 nonrecurring funds is appropriated from the General Revenue Fund
 2512 to the Department of Revenue for the purpose of implementing
 2513 this section.

2514 Section 41. Book fairs.—

2515 (1) The tax levied under chapter 212, Florida Statutes,
 2516 may not be collected on the retail sale of books and other
 2517 reading materials when sold:

2518 (a) On the premises of a public, parochial, or nonprofit
 2519 school operated for and attended by students in grades K through
 2520 12; and

2521 (b) On the premises of a nonpermanent retail establishment
 2522 that operates for less than 10 days per location each calendar

2523 year.

2524

2525 If such sales are made by a third-party vendor, the vendor must
 2526 commit some or all of the profits from the sales to the public,
 2527 parochial, or nonprofit school where the sales were made. The
 2528 profits may be distributed to the school in the form of cash,
 2529 in-store credits, in-kind contributions, or similar methods.

2530 (2) The Department of Revenue may, and all conditions are
 2531 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
 2532 and 120.54, Florida Statutes, to administer this section.

2533 (3) This section is repealed July 1, 2017.

2534 Section 42. Section 29 of chapter 2015-221, Laws of
 2535 Florida, is amended to read:

2536 Section 29. (1) The tax levied under chapter 212, Florida
 2537 Statutes, may not be collected on the retail sale of textbooks
 2538 that are required or recommended for use in a course offered by
 2539 a public postsecondary educational institution as described in
 2540 s. 1000.04, Florida Statutes, or a nonpublic postsecondary
 2541 educational institution that is eligible to participate in a
 2542 tuition assistance program authorized by s. 1009.89 or s.
 2543 1009.891, Florida Statutes. As used in this section, the term
 2544 "textbook" means any required or recommended manual of
 2545 instruction or any instructional materials for any field of
 2546 study. As used in this section, the term "instructional
 2547 materials" means any educational materials, in printed or
 2548 digital format, that are required or recommended for use in a

2549 course in any field of study. To demonstrate that a sale is not
 2550 subject to tax, the student must provide a physical or an
 2551 electronic copy of the following to the vendor:

- 2552 (a) The student's identification number; and
- 2553 (b) An applicable course syllabus or list of required and
 2554 recommended textbooks and instructional materials that meet the
 2555 criteria in s. 1004.085(3), Florida Statutes.

2556
 2557 The vendor must maintain proper documentation, as prescribed by
 2558 department rule, to identify the complete transaction or portion
 2559 of the transaction that involves the sale of textbooks that are
 2560 not subject to tax.

2561 (2) The tax exemptions provided in this section do not
 2562 apply to sales within a theme park or entertainment complex as
 2563 defined in s. 509.013(9), Florida Statutes, within a public
 2564 lodging establishment as defined in s. 509.013(4), Florida
 2565 Statutes, or within an airport as defined in s. 330.27(2),
 2566 Florida Statutes.

2567 (3) The Department of Revenue may, and all conditions are
 2568 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
 2569 and 120.54, Florida Statutes, to administer this section.

2570 (4) This section is repealed June 30, 2017 ~~2016~~.

2571 Section 43. For the 2016-2017 fiscal year, the sum of
 2572 \$55,908 in nonrecurring funds is appropriated from the General
 2573 Revenue Fund to the Department of Revenue for the purpose of
 2574 implementing s. 212.031, as amended by this act.

2575 Section 44. For the 2016-2017 fiscal year, the sum of
 2576 \$279,857 in nonrecurring funds is appropriated from the General
 2577 Revenue Fund to the Property Tax Oversight Program within the
 2578 Department of Revenue for the purpose of providing aerial
 2579 photographs and maps to counties that meet the increased
 2580 population thresholds as required by section 4 of this act.
 2581 These funds are in addition to any funds that may be provided in
 2582 the 2016-2017 General Appropriations Act for providing aerial
 2583 photographs and maps to counties with a population of 50,000 or
 2584 fewer.

2585 Section 45. The amendments to ss. 196.012 and 196.1995,
 2586 Florida Statutes, made by this act are remedial in nature and
 2587 apply retroactively to December 31, 2015.

2588 Section 46. The Legislature finds that this act fulfills
 2589 an important state interest.

2590 Section 47. Except as otherwise expressly provided in this
 2591 act and except for this section, which shall take effect upon
 2592 becoming a law, this act shall take effect July 1, 2016.