Ways and Means Committee

Tuesday, February 19, 2020

9:00 a.m. – 12:00 p.m.

Morris Hall

MEETING PACKET

Jose R. Oliva
Speaker

Bryan Avila
Chair

The Florida House of Representatives

Ways and Means Committee

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Bryan Avila
Chair

AGENDA

February 19, 2020
9:00 a.m. – 12:00 p.m.
Morris Hall

I. Call to Order/Roll Call

II. Chair's Opening Remarks

III. Consideration of the following proposed committee bill(s):
PCB WMC 20-01 -- Taxation
PCB WMC 20-02 -- Adoption of the Internal Revenue Code for Purposes of the Corporate Income Tax

IV. Consideration of the following bills:
HB 429 Sales Tax Absorption by Valdés
CS/HB 1209 Dissolution of Municipalities by Local, Federal & Veterans Affairs Subcommittee, Fischer
CS/HB 1249 Transfer of Tax Exemption for Veterans by Local, Federal & Veterans Affairs Subcommittee, Sullivan
HB 1331 Fire Control Districts and Firefighter Pensions by Roach
CS/HB 1339 Housing by Local, Federal & Veterans Affairs Subcommittee, Yarborough

V. Closing Remarks and Adjournment

221 Capitol Building, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 717-4812 Fax: (850) 413-0356

PCB WMC 20-01

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB WMC 20-01 Taxation
SPONSOR(S): Ways & Means Committee
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

The bill provides for several tax reductions and other tax-related modifications designed to directly impact both families and businesses.

The bill provides for a 0.5 percentage point reduction in the state communications services tax.

Several provisions related to sales tax are included:

- A reduction in the tax rate for commercial property rentals from 5.5% to 5.4%;
- A three-day "back-to-school" tax holiday in early August 2020 for certain clothing, school supplies, and personal computers; and a seven-day "disaster preparedness" tax holiday in May and June of 2020 for specified disaster preparedness items;
- A requirement that School Capital Outlay sales surtaxes approved in the future be proportionately shared with charter schools;
- A repeal of the Sports Development Program;
- A change in distributions made under the Tax Collection Enforcement Diversion Program;
- Future sunset of the Charter County and Regional Transportation System Sales Surtax currently levied in Miami-Dade County, and a requirement that any future levy of the tax in any eligible county be limited to 20 years in duration.

For corporate income tax, the bill provides for a one-time increase of $8.2 million available for the brownfields tax credit program equal to the amount of the current backlog of approved tax credits. It also includes a provision that amends the calculation of a taxpayer's "final tax liability" for purposes of calculating certain corporate income tax refunds.

The bill provides for restructuring of the authorized uses of tourist development, convention development, and local option food and beverage taxes levied in Miami-Dade County. The bill also expands the allowable uses for tourist development tax in all counties to allow for water quality improvement and parks and trails projects.

Regarding property taxes, the bill:

- Amends the requirements for hospitals to qualify for a charitable tax exemption. Non-profit hospitals would be required to document the value of charitable services they provide, and their current charity tax exemption would be limited to the value of that charity care.
- Updates the qualifying operations for the deployed servicemember tax exemption.
- Amends the statutory provisions that address conflict of interest for special magistrates.
- Restricts information that may be mailed with the yearly TRIM notice.
- Clarifies the timing of when certain utility owned tangible personal property is included on the tax roll.
- Allows condominium associations to jointly represent condominium owners in certain judicial appeals.

The bill provides for an approximately one-third reduction in the aviation fuel tax paid by commercial air carriers. The bill also includes several provisions proposed by the Department of Revenue designed to enhance their administration of state taxes and oversight of property taxation.

The total state and local government revenue impact of the concept language in fiscal year 2020-21 is -$108.9 million (-$103.3 million recurring). Also, $383,500 in General Revenue appropriations are contemplated. See Fiscal Comments section on page 40 for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Sales Tax

Florida's sales and use tax is a six percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals,[1] 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 2018-19)[2] and is administered by the Department of Revenue (DOR) under ch. 212, F.S.

Authorized in 1982, the Local Government Half-cent Sales Tax Program generates the largest amount of revenue for local governments among the state-shared revenue sources currently authorized by the Legislature.[3] It distributes a portion of state sales tax revenue via three separate distributions to eligible county or municipal governments. Additionally, the program distributes a portion of communications services tax revenue to eligible local governments. Allocation formulas serve as the basis for these separate distributions. The program's primary purpose is to provide relief from ad valorem and utility taxes in addition to providing counties and municipalities with revenues for local programs.[4]

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.[5] Sales tax is due at the rate of 5.5 percent on the total rent paid for the right to use or occupy commercial real property. Local option sales surtaxes can also apply.[6] 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.

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[1] The Legislature reduced the sales tax rate on commercial rentals to 5.5% effective January 1, 2020. See s. 33, ch. 2019-42, L.O.F.
[2] FLORIDA REVENUE ESTIMATING CONFERENCE (REC), 2019 FLORIDA TAX HANDBOOK (2019).
[3] ch. 82-154, Laws of Fla.
[4] 2019 Local Government Financial Information Handbook, p. 79 See http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf
[5] ch. 1969-222, Laws of Fla.
[6] s. 212.031, F.S., and Rule 12A-1.070, F.A.C.

Proposed Changes

The bill reduces the state sales tax rate on rental of commercial real estate from 5.5 percent to 5.4 percent, beginning January 1, 2021.

Sales Tax Holidays

Current Situation

Since 1998, the Legislature has enacted 26 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 eighteen 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 $60. 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. Personal computers and related accessories purchased for noncommercial home or personal use have been included several times with varying sales price thresholds. In 2013 and 2017 such computers and accessories with a sales price of $750 or less were exempted. In 2019, the exemption was for such items with a sales price of $1,000 or less. In 2014 and 2015, the first $750 of the sales price of was exempted.

For the 2019-20 school year, none of the Florida school districts held their opening day for students during the first full week of August (Aug. 5 – 9, 2019). 66 districts (98 percent) had opening days during the second week of August (Aug. 12-16, 2019). The remaining county had its opening day on August 19, 2019. Of the 40 counties that have posted their 2020-2021 school calendar as of February 5, 2020, 39 have a scheduled first day during the second week of August (August 10-14, 2020) and one is scheduled to start on August 17, 2020.

Hurricanes and Disasters in Florida--The Florida Office of Insurance Regulation estimated insured losses of over $7.4 billion due to Hurricane Michael in 2018,[7] $11 billion due to Hurricane Irma in 2017,[8] $1.3 billion due to hurricanes Hermine and Mathew in 2016,[9] $25 billion due to four hurricanes in 2004, and $10.8 billion due to four hurricanes in 2005.[10] Tropical Storm Fay was estimated to have resulted in $242 million of damage in 2008.[11] The Florida Division of Emergency Management recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit.[12]

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[7] Florida Office of Insurance Regulation, Catastrophe Report, available at: https://floir.com/Office/HurricaneSeason/HurricaneMichaelClaimsData.aspx (last visited February 1, 2020).
[8] Florida Office of Insurance Regulation, Catastrophe Report, available at: https://www.floir.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx (last visited February 1, 2020).
[9] Florida Office of Insurance Regulation, Catastrophe Reports, available at: https://floir.com/Office/HurricaneSeason/HurricaneMatthewClaimsData.aspx and https://floir.com/Office/HurricaneSeason/HurricaneHermineClaimsData.aspx (last visited February 1, 2020).
[10] Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: http://www.floir.com/siteDocuments/HurricaneSummary20042005.pdf (last visited February 1, 2020).
[11] Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: http://www.floir.com/siteDocuments/HurricaneSummary2008.pdf. (last visited February 1, 2020).
[12] Florida Division of Emergency Management, *Disaster Supply Kit*, https://www.floridadisaster.org/planprepare/disaster-supply-kit/ (last visited February 1, 2020).

Proposed Changes

The bill establishes a temporary back-to-school sales tax holiday and a temporary disaster preparedness sales tax holiday.

"Back-to-School Holiday"--A three-day sales tax holiday would be authorized from August 7, 2020, through August 9, 2020. During the holiday, the following items that cost $60 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 various "school supplies" that cost $15 or less per item during the holiday.

Additionally exempted would be the first $1,000 of the sales price of 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 and furniture, and devices or software intended primarily for recreational use, are not exempted.

Disaster Preparedness Sales Tax Holiday--The bill provides for a seven-day sales tax holiday from May 29, 2020, through June 4, 2020 for specified items related to disaster preparedness. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- A portable self-powered light source selling for $20 or less;
- A portable self-powered radio, two-way radio, or weather band radio selling for $50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for $50 or less;
- A ground anchor system or tie-down kit selling for $50 or less;
- A gas or diesel fuel tank selling for $25 or less;
- A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for $30 or less;
- A nonelectric food storage cooler selling for $30 or less;
- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for $750 or less; and
- Reusable ice selling for $10 or less.

The above 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.

Additionally, the "back to school" sales tax holiday would be allowed to apply at the option of the dealer if less than five percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2020, the dealer must notify DOR in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business. The DOR would be authorized to adopt emergency rules to implement the provisions of the tax holidays.

Sports Development Program

Sports Development Program

Section 288.11625, F.S., allows for distributions of state sales and use tax revenue pursuant to s. 212.20, F.S., to fund professional sports franchise facilities. The Department of Economic Opportunity (DEO) administers the Program and is responsible for screening applicants[13] for state funding. The purpose of the Program is to provide state funding for the construction, reconstruction, renovation, or improvement of a sports facility,[14] the proposed acquisition of land to construct a new facility, and construction of improvements to state-owned land necessary for the efficient use of the facility.

General Application and Approval Process

DEO accepts applications between June 1 and November 1 each year. Within 60 days of receiving a completed application, DEO is required to evaluate the application and notify the applicant in writing of their decision to recommend or deny approval. DEO provides the Legislature with a list of the recommended applicants, ranked in the order of the project's likelihood to positively impact the state. To receive funding, an application must be approved by the Legislature in a conforming bill or general law approved by the Governor, and DEO must certify the applicant and its approved request for funding and notify DOR of the initial certification and distribution amount.

An applicant remains certified for 30 years or the length of the agreement between the beneficiary[15] and the local government that owns the facility or the property on which the facility is or will be located, whichever is less.

DEO may only recommend one distribution per applicant, facility or beneficiary. Furthermore, no facility or beneficiary can receive more than one distribution under s. 212.20, F.S., for any state-administered, sports-related program.[16] An exception exists for applicants who can show that the beneficiary that was the subject of a previous distribution under s. 212.20, F.S., no longer plays at the facility that is the subject of the application under the new program.

Distribution of State Funds

The amount that an applicant may receive is based on 75 percent of the average annual new incremental state sales taxes generated by sales at the facility, and are limited by a tiered system.

DEO is required to consult with DOR and the Office of Economic and Demographic Research (EDR) to develop a standard calculation for estimating the average annual new incremental state sales taxes generated by sales at the facility.

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[13] Section 288.11625(2), F.S. An "applicant" is a unit of local government which is responsible for the construction, management, or operation of a facility; or an entity that is responsible for the construction, management, or operation of a facility if a unit of local government holds title to the underlying property on which the facility is located.

[14] *Id.* A "Facility" is a structure, and its adjoining parcels of local-government-owned land, primarily used to host games or events held by a beneficiary and does not include any portion used to provide transient lodging.

[15] *Id.* A "Beneficiary" is a professional sports franchise of the NFL, NHL, NBA, the National League or American League of MLB, Minor League Baseball, MLS, the North American Soccer League (NASL), the Professional Rodeo Cowboys Association (PRCA), the promoter or host of a signature event administered by Breeders' Cup Limited, or the promoter of a signature event sanctioned by the National Association for Stock Car Auto Racing (NASCAR). A beneficiary may also be an applicant under this program.

[16] Such sports-related programs include Professional Sports Franchises (s. 288.1162, F.S.), Spring Training Baseball Franchises (s. 288.11621, F.S.), Sports Development (s. 288.11625, F.S.), and Retention of MLB Spring Training Franchises (s. 288.11631, F.S.). However, if an applicant for the Sports Development Program is already receiving distributions under the Professional Sports Franchises Program (s. 288.1162, F.S.) for the same facility or beneficiary, the applicant is eligible for an additional distribution of up to $1 million if the total project cost exceeds $100 million.

Use of Funds

Once certified, applicants may use Sports Development Program funds for the following purposes:

- Constructing, reconstructing, renovating, or improving a facility or reimbursing such costs;
- Paying or pledging for the payment of debt service on bonds issued for the construction or renovation of a facility;
- Funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto on bonds issued for the construction or renovation of a facility; and
- Reimbursing the costs associated with debt service payments or refinancing of bonds issued for the construction or renovation of a facility.

Contract

Certified applicants must enter into a contract with DEO that meets certain criteria.[17]
The contract must also require the applicant to reimburse the state, after all distributions have been made, any amount by which the total distributions made under the program exceed actual new incremental state sales taxes generated by sales at the facility during the contract, plus a 5 percent penalty on that amount.

Applicant History under the Sports Development Program

To date, no applicants have been certified and no funds have been distributed under the Program.
In FY 2014-15, DEO received four applications: the City of Jacksonville, the City of Orlando, Daytona International Speedway, LLC, and South Florida Stadium, LLC. All applicants qualified for the "special" application process.

In FY 2015-16, DEO received four applications: Buccaneers Football Stadium Limited Partnership, the City of Jacksonville, Daytona International Speedway, LLC, and South Florida Stadium, LLC. The Buccaneers application was incomplete and not transmitted to the Legislature, the other applications qualified for the special application process.

In FY 2016-17, DEO received one application, from Buccaneers Stadium, LLC. DEO reviewed the application under the "general" application process.

DEO did not receive any applications for the Program in FYs 2017-18 or 2018-19.[18]

Economic Development Programs Evaluation

Section 288.0001, F.S., requires EDR and OPPAGA to include the Sports Development Program among the list of economic development programs scheduled to be reviewed and analyzed by January 1, 2018, and every three years thereafter. As no applicants have been certified under the Program and no funds have been distributed, neither OPPAGA[19] nor EDR[20] was able to review and analyze the Program in its first three-year reporting cycle.

Proposed Changes

The bill repeals s. 288.11625, F.S., eliminating the Sports Development Program. The bill also removes provisions relating to the distribution of funds under the program, reimbursement provisions, and reporting requirements, to conform with elimination of the program.

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[17] s. 288.11625(7), F.S.
[18] Email from Karis Lockhart, Deputy Director of Legislative Affairs, DEO (Jan. 17, 2020).
[19] OPPAGA, Report No. 17-13, Florida Economic Development Program Evaluations-Year 5, p. 45 (Dec. 28, 2017).
[20] EDR, Return on Investment for the Florida Sports Foundation Grants and Related Programs, p. 1 (Jan. 1, 2018).

Tax Collection Enforcement Diversion Program

Current Situation

The Tax Collection Enforcement Diversion program, which collects revenue due from persons who have not remitted their sales tax collections, began as a pilot program in 2002 and was fully implemented in 2005. The program is operated by participating State Attorney's Offices in cooperation with the DOR. To be eligible for the program, taxpayers must meet certain requirements. They must show a pattern of delinquency for several months and the delinquency cannot exceed the misdemeanor level. Eight State Attorney's Offices currently participate in the program: Jacksonville, Clearwater, Miami, Tampa, West Palm Beach, Fort Lauderdale, Fort Myers, and Orlando (Key West participated in the program from FY 2008-09 through FY 2013-14).

Fifty percent of all collections from the program are distributed as sales tax collections via 212.20, F.S., and fifty percent are deposited into the special reserve account of the Florida Association of Centers for Independent Living to be used to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program (JP-PAS) and to contract with the State Attorneys participating in the tax collection enforcement diversion program. The JP-PAS provides personal care attendants and other support and services to persons with significant and chronic disabilities to enable them to obtain or maintain competitive and integrated employment, including self-employment.

Proposed Change

The bill would increase the percentage of collections from the program that are deposited into the special reserve account of the Florida Association of Centers for Independent Living from fifty percent to seventy-five percent.

School Capital Outlay Surtax

Current Situation

Subsection 212.055(6), F.S., authorizes school districts to levy discretionary sales surtaxes for school capital outlay. Each county school board may levy a discretionary sales surtax at a rate not to exceed 0.5 percent, pursuant to a resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum.[21]

The resolution must include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax.[22] The resolution must include a plan for the use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses that have a useful life expectancy of five or more years, and any land acquisition, land improvement, design, and related engineering costs. The plan must also include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance authorized projects, and any interest accrued may be held in trust to finance the projects.[23]

Twenty-four counties currently levy a school capital outlay surtax.[24] DOR collects the surtax revenues and is required by law to distribute them to the district school board imposing the tax.[25] There is

[21] s. 212.055, F.S.
[22] s. 212.055(6)(b), F.S
[23] s. 212.055(6)(c), F.S
[24] 2019 Local Government Financial Information Handbook, p. 158. See: http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf
[25] Section 212.055(6)(d), F.S

currently no provision in law requiring school districts to share the capital outlay surtax funds with charter schools.

Proposed Changes

The bill establishes an additional requirement for the resolution that voters must approve in order to levy a school capital outlay surtax. Specifically, such resolution must include a statement that the revenues collected shall be shared with charter schools based on their proportionate share of the total school district enrollment.

The bill also requires that charter schools expend the surtax funds in a manner consistent with existing allowable uses for charter school capital outlay funding, as set forth in section 1013.62(4), F.S., which are for the:

- Purchase of real property.
- Construction of school facilities.
- Purchase, lease-purchase, or lease of permanent or relocatable school facilities.
- Purchase of vehicles to transport students to and from the charter school.
- Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of 5 years or longer.
- Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities.
- Purchase, lease-purchase, or lease of driver's education vehicles; motor vehicles used for the maintenance or operation of plant and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.
- Purchase, lease-purchase, or lease of computer and device hardware and operating system software necessary for gaining access to or enhancing the use of electronic and digital instructional content and resources; and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support schoolwide administration or state-mandated reporting requirements. Enterprise resource software may be acquired by annual license fees, maintenance fees, or lease agreement.
- Payment of the cost of the opening day collection for the library media center of a new school.

Further, all revenues and expenditures shall be accounted for in a charter school's monthly or quarterly financial statement pursuant to s. 1002.33(9), F.S. These changes only apply to levies authorized by vote of the electors on or after July 1, 2020.

Charter County and Regional Transportation System Surtax

Current Situation

Each charter county that has adopted a charter, each county the government of which is consolidated with that of one or more municipalities, and each county that is within or under an interlocal agreement with a regional transportation or transit authority created under chapter 343 or chapter 349, F.S., may levy a discretionary sales surtax of up to one percent, subject to approval by a majority vote of the electorate of the county or by a charter amendment approved by a majority vote of the electorate of the county.[26]

Generally, the surtax proceeds are used for the development, construction, operation, and maintenance of fixed guideway rapid transit systems; bus systems; on-demand transportation services; and roads

[26] s. 212.055(1), F.S.

and bridges.[27] Counties eligible to levy the surtax may also use up to 25 percent of the proceeds for nontransit purposes.[28] Currently four counties are levying the tax.[29]

Proposed Changes

The bill provides that the surtax levied in counties, as defined in s. 125.011(1), F.S.,[30] shall expire on December 31, 2049. Any new levy of such surtax, on or after January 1, 2050, must be approved by a majority vote of the electorate at a general election held within two years prior to the effective date of a new levy.

The bill also provides that any new levy of the surtax by any county approved in a referendum on or after July 1, 2020, may not be authorized for a period of more than 20 years without being reenacted in a subsequent referendum.

Communications Services Tax

Current Situation

Chapter 202, F.S., imposes a tax on the sale of communication services, including wireline and mobile telecommunications service, cable and video service, and direct-to-home satellite service.

The state tax rate for communications services (state CST) is 4.92 percent and is applied to the retail sales price of communications service that originates and terminates in this state, or originates or terminates in this state and is charged to a service address in this state.[31] The tax is calculated and collected on each retail sale of communications services[32] except direct-to-home satellite services, which are taxed at a rate of 9.07 percent.[33] The state also levies a 2.52 percent gross receipts tax on communications services.[34]

Local governments may also levy a communications service tax (local CST), which varies by jurisdiction.[35] The maximum rate for municipalities or charter counties is 5.1 percent (or 4.98 percent if the municipality or charter county levies certain permit fees, which are discussed below).[36] The maximum rate for non-charter counties is 1.6 percent.[37] These maximum rates do not include add-ons of up to 0.12 percent for municipalities and charter counties or up to 0.24 percent for non-charter counties.[38] Further, rates adopted by a local taxing jurisdiction to correct an expected shortfall caused by law changes in 2002 may exceed the statutory maximum rates under certain circumstances.[39] The local CST does not apply to direct-to-home satellite services.[40]

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[27] s. 212.055(1)(d), F.S.
[28] s. 212.055(1)(d)3., F.S.
[29] Broward, Duval, Hillsborough and Miami-Dade counties levy this tax. See 2019 Local Government Financial Information Handbook, p. 158. See: http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf
[30] Section 125.011(1), F.S., defines "county" as "any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred." This definition currently applies only to Miami-Dade County.
[31] s. 202.12(1)(a), F.S.
[32] In addition, a gross receipts tax of 2.52 percent is calculated and collected on the same taxable transactions and remitted with the communications services tax. S. 203.01(1)(b), F.S.
[33] s. 202.12(1)(b), F.S.
[34] s. 203.01(1)(a) and (b), F.S.
[35] s. 202.19(1), F.S.
[36] s. 202.19(2)(a), F.S.
[37] s. 202.19(2)(b), F.S.
[38] s. 202.19(2)(c), F.S.
[39] s. 202.20(2)(a)3. F.S.
[40] s. 202.19(6), F.S.

The state CST is distributed by a similar formula as the sales and use tax, as prescribed in s. 212.20(6), F.S., with most of the proceeds deposited into the General Revenue Fund and a portion distributed to local governments.[41]

Proposed Changes

The bill reduces the state CST rate for general communications services from 4.92 percent to 4.42 percent. The bill reduces the CST rate for direct-to-home satellite services from 9.07 percent to 8.57 percent. The bill provides that these reduced rates shall be applied to bills for communications services dated on or after January 1, 2021.

Corporate Income Tax

Florida levies corporate income tax on corporations of 5.5 percent for income earned in Florida.[42] The calculation of Florida corporate income tax starts with a corporation's federal taxable income.[43] After certain addbacks and subtractions to federal taxable income required by ch. 220, F.S., the amount of adjusted federal income attributable to Florida is determined by the application of an apportionment formula.[44] 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.[45] 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.[46]

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:

- A site eligible for state-funded cleanup under the Drycleaning Solvent Cleanup Program;[47]
- 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.[48]

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, current law 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 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.

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[41] s. 202.18(1), F.S. In addition, the gross receipts tax collected on communications services pursuant to s. 203.01(1)(b), F.S., goes to the Public Education Capital Outlay and Debt Service Trust Fund (PECO).
[42] s. 220.11, F.S.
[43] s. 220.12, F.S.
[44] s. 220.15, F.S.
[45] s. 220.15, F.S.
[46] s. 220.14, F.S.
[47] s. 376.30781, F.S.
[48] s. 220.1845, F.S.

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 DEP is $10 million annually. In the event that approved tax credit applications exceed the $10 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.

Since 1998, the VCTC Program has approved $108.1 million in VCTCs.[49] Since 2014, the approved tax credits have averaged more than $12.3 million per year.

As of February 1, 2020, DEP had a backlog of $8.2 million in approved tax credits that have not been funded.[50] DEP received 149 VCTC applications for 2019 calendar year expenses totaling $13.0 million.[51,52]

Proposed Changes

The bill provides a one-time additional tax credit authorization of $8.2 million for FY 2020-21.

Automatic Refunds

Current Situation

On December 22, 2017, the federal government passed the Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018 (Tax Cuts and Jobs Act).[53] On February 9, 2018, they passed the Bipartisan Budget Act of 2018 which contained tax extender legislation.[54] The acts made substantial changes to the taxation of individuals and business entities in all industries and contained numerous significant amendments to the Internal Revenue Code. One of the most significant changes that the Tax Cuts and Jobs Act made was amending IRC section 11(b) to permanently reduce the federal corporate income tax rate from 35 percent to 21 percent for taxable years beginning after December 31, 2017. Additionally, numerous changes were made to the calculation of federal taxable income. On balance, the federal tax base was substantially expanded. The legislature adopted measures in response to the 2017 and 2018 federal income tax legislation during the 2018 and 2019 legislative sessions.

One such measure requires any collections in excess of "adjusted forecasted collections" during fiscal year 2018-19 to be refunded to eligible corporate taxpayers no later than May 1, 2020, according to a process set forth in statute. "Adjusted forecasted collections" is defined as the amount of net collections of corporate income tax forecasted by the Revenue Estimating Conference for the 2018-19 fiscal year on February 23, 2018, multiplied by 1.07.

Taxpayers eligible for refunds are those with taxable years beginning between April 1, 2017, and March 31, 2018, and whose final tax liability for that period is greater than zero. An eligible taxpayer's refund will equal the total excess collections multiplied by that taxpayer's final tax liability as a percentage of

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[49] Email correspondence with DEP staff, Feb. 6, 2020, on file with House Ways and Means Committee.
[50] DEP, Voluntary Cleanup Tax Credit Backlog, https://floridadep.gov/sites/default/files/VCTC-Pending-Awards_30Jul19.pdf (last visited February 5, 2020)
[51] Email correspondence with DEP staff, Feb. 5, 2020, on file with House Ways and Means Committee.
[52] Note that, for various reasons, not all of the $12.9 million in tax credits applied for will be approved.
[53] Public Law No. 115-97, H.R. 1 (December 22, 2017). The act was originally introduced as the Tax Cuts and Jobs Act.
[54] Public Law No. 115-123, H.R. 1892 (February 9, 2018). Tax extenders are temporary tax laws that have a set expiration date, but are typically kept alive through extensions. Because lawmakers generally extend these laws they are collectively referred to as "tax extenders."

the total liabilities of all eligible taxpayers. Current estimates are that $543 million will be refunded to taxpayers by May 1, 2020, as a result of this provision.

For purposes of calculating the refund each taxpayer may receive, its "final tax liability" is the taxpayer's amount of tax due under this chapter for a taxable year, reported on a return filed with the department. The amount of tax due on a taxpayer's return is the amount owed after all required tax calculations are made, including accounting for applicable credits, including the credit allowed under s. 220.1875, F.S., for certain contributions made to eligible nonprofit scholarship-funding organizations under the Florida Tax Credit Scholarship Program. Businesses that used tax credits pursuant to s. 220.1875, F.S., for taxable years beginning between April 1, 2017, and March 31, 2018, had a lower "final tax liability" than they would have had without making eligible contributions to eligible organizations and therefore are eligible for a smaller proportion of the $543 million in refunds scheduled to be made by May 1, 2020.

Proposed Change

The bill would, in effect, allow credits taken under s. 220.1875, F.S., to count towards a taxpayer's "final tax liability" for purposes of calculating refunds available under s. 220.1105, F.S.

Aviation Fuel Tax

Current Situation

Florida Law

Florida law imposes an excise tax of 4.27 cents on every gallon of aviation fuel sold in the state or brought into the state for use.[55] Aviation fuel is defined as "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."[56]

In 2018, the Legislature reduced the excise tax on aviation fuel from 4.27 cents per gallon to 2.85 cents per gallon for aviation fuel paid by an air carrier who conducts scheduled operations or all-cargo operations that are authorized under 14 C.F.R. parts 121, 129, or 135. The tax reduction is available only through a refund of previously paid taxes. The purchaser must pay the 4.27 cents per gallon tax at the time of purchase and request a refund of 1.42 cents per gallon. The refund provided under this section plus the refund provided under s. 206.9855, F.S., related to wages paid by air carriers to employees located or based within Florida may not exceed 4.27 cents per gallon of aviation fuel purchased by an air carrier.

Collections of aviation fuel tax in fiscal year 2020-21 are estimated to be $15.3 million, net of refunds.[57]

Federal Law

The Federal Aviation Administration (FAA) is the agency within the United States Department of Transportation (USDOT) that, among other things, regulates the air transportation system in the United States.[58] Title 14 of the Code of Federal Regulations, in part, provides the licensing, certification, and operational specifications for all aviation activities in the United States. Federal regulations define "air carrier" to mean a person who undertakes directly by lease, or other arrangement, to engage in air transportation. Part 121 provides the operating requirements for domestic, flag, and supplemental operations. Part 125 provides for the certification and operation requirements for airplanes having a seating capacity of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more; part 125 also provides rules governing person on board such aircrafts. Part 135 provides the operating

[55] s. 206.9825, F.S.
[56] s. 206.9815, F.S.
[57] EDR, Florida Transportation Revenue Estimating Conference, January 2020.
[58] USDOT, Administrations, available at: http://www.dot.gov/administrations (last visited Feb. 15, 2018).

requirements for commuter and on-demand operations and rules governing persons on board such aircrafts.

The FAA imposes certain restrictions on the uses of revenues for airport operators that accept Federal assistance.[59] Generally, revenues from state and local taxes on aviation fuel may only be used for certain aviation-related purposes such as airport operating costs, or in the case of state taxes, a "state aviation program."[60] However, the revenue from state and local taxes on aviation fuel which were in effect prior to December 30, 1987, is considered "grandfathered" and is eligible for use for otherwise impermissible expenditures.[61] On November 7, 2014, the FAA clarified its interpretation of the federal requirements for the use of revenue derived from taxes on aviation fuel, and requested each state to validate compliance with this FAA regulation.[62] On April 26, 2016, the Florida Department of Transportation validated the state's compliance with the FAA regulation.[63]

Proposed Changes

The bill further reduces the net excise tax on aviation fuel (after accounting for refunds) from 2.85 cents per gallon to 1.89 cents per gallon for aviation fuel paid by an air carrier who conducts scheduled operations or all-cargo operations that are authorized under 14 C.F.R. parts 121, 129, or 135. Using the same refund mechanism enacted in 2018 described above, the bill increases the refund available to these air carriers from 1.42 cents per gallon to 2.38 cents per gallon.

Property Taxation in Florida

Local governments, including counties, school districts, and municipalities have the constitutional authority to levy ad valorem taxes. Special districts may also be given this authority by law.[64] 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.[65] 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.[66]

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.[67] The Florida Constitution grants property tax relief in the form of certain valuation differentials,[68] assessment

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[59] 49 U.S.C. §§ 47107(b) and 47133; Public Laws No. 97-248 and 100-223.
[60] "State aviation program" is not defined, but generally refers to state programs that support capital improvements or operating costs of airports; FAA, Policy and Procedures Concerning the use of Airport Revenue: Proceeds from Taxes on Aviation Fuel, 79 FR 66282, available at: https://www.faa.gov/airports/resources/publications/federal_register_notices/ (last visited Feb. 15, 2018).
[61] Dec. 30, 1987, is the "grandfather" deadline because The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223, passed on that date, which first required state and local taxes on aviation fuel to be spent on airport-related purposes.
[62] FAA, Policy and Procedures Concerning the use of Airport Revenue: Proceeds from Taxes on Aviation Fuel, 79 FR 66282, available at: https://www.faa.gov/airports/resources/publications/federal_register_notices/ (last visited Feb 15, 2018).
[63] Florida DOT, correspondence from FDOT State Aviation Manager to FAA Director of Office of Airport Compliance and Management Analysis, April 26, 2016, on file with House Ways & Means Committee.
[64] FLA. CONST. art VII, s. 9.
[65] FLA. CONST. art VII, s. 2.
[66] 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).
[67] "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).
[68] FLA. CONST. art VII, s. 4, authorizes valuation differentials, which are based on character or use of property.

limitations,[69] and exemptions,[70] including the exemptions relating to municipalities and exemptions for educational, literary, scientific, religious or charitable purposes.

Property Tax Assessments - Condominium Associations

Current Situation

Condominium association unit owners and cooperative associations unit owners are assessed yearly ad valorem[71] taxes by the county property appraiser.[72] For condominium unit owners, ad valorem taxes for common elements are divided and levied proportionally among individual condominium parcel owners.[73]

Current law permits condominium and cooperative associations to file a single joint petition to the Value Adjustment Board ("VAB") contesting the tax assessment of all units within the condominium or cooperative.[74] The association must provide each unit owner notice of the petition and their right to opt out of the appeal, if desired.[75]

A decision by the VAB may be appealed to the circuit court.[76] While current law is clear that an association is authorized to act on behalf of all unit owners when filing a petition to the VAB and when initiating an appeal of the VAB's decision, it is unclear whether the association may defend, on behalf of unit owners, an appeal of the VAB's decision by the property appraiser.[77]

The court in *Central Carillon Beach Condominium v. Garcia* took up this issue in a case of first impression.[78] Petitioners were two condominium associations who had represented their unit owners in a tax assessment challenge before a VAB (Associations). Respondent was the property appraiser for Miami-Dade County (Appraiser).[79]

When the Associations initially challenged their tax assessment, the VAB substantially lowered their assessed property values.[80] As a result, the Appraiser challenged the decision in an appeal to the Miami-Dade Circuit Court, and named the individual unit owners, instead of the Associations.[81] In response, the Associations submitted a motion to dismiss the appeal and a motion for certification of the unit owners as a defense class. Both motions were denied by the circuit court, and the Associations appealed the denial of the motion to the Third District Court of Appeal.[82]

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[69] 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.

[70] 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.

[71] "Ad valorem tax" means a tax based upon the assessed value of property. Section 192.001(1), F.S.

[72] s. 194.011, F.S.

[73] s. 718.120(1), F.S.; Office of the Attorney General, Advisory Legal Opinion – AGO 99-12, Mar. 8, 1999.

[74] s. 194.011(3)(e), F.S.

[75] s. 194.171, F.S.

[76] s. 194.011(3)(e), F.S.

[77] *Id.*

[78] *Central Carillon Beach Condominium Association, Inc., et al., v. Garcia, etc, et al.,* 245 So. 3d 869 (Fla. 3d DCA 2018).

[79] *Id.* at 869.

[80] *Id.* at 870.

[81] *Id.* at 871.

[82] *Id.* at 869.

In response, the Appraiser argued that defense class certification should be denied, and the appeal should name individual unit owners, because statutes governing tax assessment challenge procedures require that individual unit owners be named on appeal.[83]

Section 194.181(2), F.S., states that in any case brought by the taxpayer or association contesting the assessment of any property, the county property appraiser shall be party. In any case brought by the property appraiser alleging specific legal violations in the VAB's decision or claiming a certain monetary variance between the assessed value of the property by the property appraiser and the VAB in the decision,[84] the taxpayer shall be party defendant. "Taxpayer" is defined as the person or other legal entity in whose name property is assessed, including an agent of a timeshare period titleholder.[85] In *Central Carillon*, the individual unit owners were assessed the taxes, not the associations.[86]

The Associations argued that this law conflicts with condominium association law which generally allows associations to represent unit owners through their rights of collective representation.[87]

Section 718.111(3), F.S., in pertinent part, states that:

"The association may institute... or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest to most or all unit owners, including, but not limited to, the common elements; the roof and structural components of a building or other improvements; mechanical, electrical, and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities; and protesting ad valorem taxes on commonly used facilities and on units; and may defend actions in eminent domain or bring inverse condemnation actions. If the association has the authority to maintain a class action, the association may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the association could bring a class action." (Emphasis added).

The court found that the Associations' argument was unsupported, stating that the provision only addresses ad valorem taxes in one phrase: "protesting ad valorem taxes on commonly used facilities and on units." The Associations protested the ad valorem taxes on behalf of all units, but the lawsuits brought by the Appraiser against the unit owners are not "protests." Rather, they are judicial review proceedings in which the unit owners are defendants. The specific cases in which an association may defend on behalf of all unit owners are "actions in eminent domain."[88]

The Associations argued that because they could bring a class action if they were appealing a decision of the VAB, they "may be joined in an action as a representative of that class with reference to litigation...." However, the court found that s. 718.111(3), F.S., was not as precisely applied to the Appraiser's lawsuits against the unit owners as the ad valorem litigation provision, s. 194.181(2), F.S., which states that when an appraiser is the plaintiff seeking circuit court review of the VAB decision, "the taxpayer shall be the party defendant...."[89]

Based on this statutory interpretation, the court in *Central Carillon* found that current law does not allow such an association to act on behalf of unit owners on appeal where a VAB decision is appealed by the property appraiser.[90]

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[83] *Id.* at 871.
[84] s. 194.036(1)(a), (b), F.S. In cases where the property appraiser is claiming a systematic violation of legal requirements, the VAB is the defendant.
[85] s. 192.001(13), F.S.
[86] *Central Carillon*, *supra* note 20, at 871.
[87] *Id.* at 871, 872.
[88] *Id.* at 872.
[89] *Id.* at 872.
[90] *Id.* at 873.

Proposed Changes

The bill amends current law to clarify that where an association has filed a single joint petition to challenge a tax assessment, a condominium or cooperative association may continue to represent, prosecute, and defend the unit owners through any related subsequent proceeding in any tribunal and any appeals. This provision would apply to cases pending on July 1, 2020.

The bill provides that in any case brought by the property appraiser concerning a value adjustment board decision on a single joint petition filed by a condominium or cooperative association, the association and all unit owners included in the single joint petition are the party defendants. The bill also requires, in cases in which the association chooses to continue in the appeal process, that the association must notify all unit owners of their options to participate or not participate. The notice must be hand-delivered or delivered by certified mail, return receipt requested, or transmitted electronically if a unit owner has expressly consented in writing to receive such notices through electronic transmission. The association must provide at least 20 days for unit owners to respond to the notice. Any unit owner failing to respond to the notice will be represented in the response or answer filed by the association.

Ad Valorem Exemption for Deployed Servicemembers[91]

Current Situation

The Florida Constitution grants an exemption for military servicemembers that have Florida homesteads and are deployed on active duty outside the continental United States, Alaska or Hawaii in support of military operations designated by the Legislature.[92] The exemption is equal to the taxable value of the qualifying servicemember's homestead on January 1 of the year in which the exemption is sought, multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year, and divided by the number of days in that year.[93]

Eligible Military Operations

The Legislature has designated the following military operations as eligible for the exemption:

- Operation Joint Task Force Bravo, which began in 1995;
- Operation Joint Guardian, which began on June 12, 1999;
- Operation Noble Eagle, which began on September 15, 2001;
- Operation Enduring Freedom, which began on October 7, 2001, and ended on December 31, 2014;
- Operations in the Balkans, which began in 2004;
- Operation Nomad Shadow, which began in 2007;
- Operation U.S. Airstrikes Al Qaeda in Somalia, which began in January 2007;
- Operation Copper Dune, which began in 2009;
- Operation Georgia Deployment Program, which began in August 2009;
- Operation Spartan Shield, which began in June 2011;
- Operation Observant Compass, which began in October 2011;
- Operation Inherent Resolve, which began on August 8, 2014;
- Operation Atlantic Resolve, which began in April 2014;
- Operation Freedom's Sentinel, which began on January 1, 2015;
- Operation Resolute Support, which began in January 2015.

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[91] Section 196.173(7), F.S., defines the term "servicemember" for purposes of this exemption to mean a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard.

[92] Fla. Const. art. VII, s. 3(g). See also s. 196.173, F.S.

[93] s. 196.173(4), F.S.

Annual Report of All Known and Unclassified Military Operations

By January 15 of each year, the Department of Military Affairs (DMA) must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year.[94]

Proposed Changes

The bill updates the statutory list of military operations eligible for the exemption by adding Operation Juniper Shield, which began February 2007, Operation Pacific Eagle, which began September 2017, and Operation Martillo, which began January 2012. The bill also removes Operation Enduring Freedom which ended on December 31, 2014.

Ad Valorem Exemption for Hospitals

Current Situation

Florida Charitable Property Tax Exemption

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,[95] and it provides for specified assessment limitations, property classifications and exemptions.[96] After the local 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.[97] Such exemptions include, but are not limited to, exemptions for such portions of property used predominately for educational, literary, scientific, religious or charitable purposes.[98]

The Legislature implemented these constitutional exemptions and set forth the criteria used to determine whether property is entitled to an exemption for use as a charitable, religious, scientific, or literary purpose.[99] Specific provisions exist for property for hospitals, nursing homes, and homes for special services;[100] property used for religious purposes;[101] educational institutions[102] and charter schools;[103] labor organization property;[104] nonprofit community centers;[105] biblical history displays;[106] and affordable housing.[107]

In determining whether the use of a property qualifies the property for an ad valorem tax exemption, the property appraiser must 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.[108] Only the portions of the property used predominantly for qualified

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[94] s. 196.173(3), F.S.
[95] Fla. Const., art. VII, s. 4.
[96] Fla. Const., art. VII, ss. 3, 4, and 6.
[97] s. 196.031, F.S.
[98] Fla. Const., art. VII, s. 3.
[99] ss. 196.195 and 196.196, F.S.
[100] s. 196.197, F.S.
[101] ss. 196.1975(3) and 196.196(3), F.S.
[102] s. 196.198, F.S.
[103] s. 196.1983, F.S.
[104] s. 196.1985, F.S.
[105] s. 196.1986, F.S.
[106] s. 196.1987, F.S.
[107] s. 196.196(5), F.S.
[108] s. 196.196(1)(a)-(b), F.S.

purposes may be exempt from ad valorem taxation. If the property owned by an exempt organization is used exclusively for exempt purposes, it shall be totally exempt from ad valorem taxation.

Charitable Organizations

Under federal law, an organization may only be tax-exempt if it is organized and operated for exempt purposes, including charitable and religious purposes.[109] None of the organization's earnings may benefit any private shareholder or individual, and the organization may not attempt to influence legislation as a substantial part of its activities. Charitable purposes include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government.

Florida law defines a charitable purpose as a function or service which is of such a community service that its discontinuance could legally result in the allocation of public funds for the continuance of the function or the service.[110]

Determining Profit vs. Non-Profit Status of an Entity

Current law outlines the criteria a local property appraiser must consider in determining whether an applicant for a religious, literary, scientific, or charitable exemption is a nonprofit or profit-making venture for the purposes of receiving an exemption.[111] An applicant must provide the property appraiser with "such fiscal and other records showing in reasonable detail the financial condition, record of operations, and exempt and nonexempt uses of the property . . . for the immediately preceding fiscal year."[112]

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."[113]

Based on the information provided by the applicant, the property appraiser must determine whether the applicant is a nonprofit or profit-making venture or if the property is used for a profit-making purpose.[114] In doing so, the property appraiser must consider the reasonableness of various payments, loan guarantees, contractual arrangements, management functions, capital expenditures, procurements, charges for services rendered, and other financial dealings.

A religious, literary, scientific, or charitable exemption may not be granted until the property appraiser, or value adjustment board on appeal, determines the applicant to be nonprofit.[115]

Additional Criteria for Hospitals, Nursing Homes, and Homes for Special Services

In addition to the above criteria, hospitals,[116] nursing homes[117] and homes for special services[118] must be a Florida non-profit corporations that are exempt organizations under the provisions of s. 501(c)(3) of the Internal Revenue Code.[119]

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[109] 26 U.S.C. § 501(c)(3).
[110] s. 196.012(7), F.S.
[111] s. 196.195, F.S.
[112] s. 196.195(1), F.S.
[113] s. 196.195(3), F.S.
[114] s. 196.195(2)(a)-(e), F.S.
[115] s. 196.195(4), F.S.
[116] s. 196.012(8), F.S., "Hospital" means an institution which possesses a valid license granted under chapter 395 on January 1 of the year for which exemption from ad valorem taxation is requested
[117] s. 196.012(8), F.S., "Nursing home" or "home for special services" means an institution that possesses a valid license under chapter 400 or part I of chapter 429 on January 1 of the year for which exemption from ad valorem taxation is requested.

In determining the extent of the exemption to be granted to hospitals, nursing homes, and homes for special services, portions of the property leased as parking lots or garages operated by private enterprise are not exempt from taxation.[120] Property or facilities which are leased to a nonprofit corporation which provides direct medical services to patients in a nonprofit or public hospital and qualify under s. 196.196, F.S., are exempt from taxation.[121]

Federal Charity Care Reporting Requirements

To qualify for federal tax exemption, hospitals must report their community benefit activities to the Internal Revenue Service by filing IRS Form 990 and a supplemental Schedule H form. Community benefit activities include the net, unreimbursed costs of charity care (providing free or discounted services to patients who qualify under the hospital's financial assistance policy); participation in means-tested government programs, such as Medicaid; health professions education; health services research; subsidized health services; community health improvement activities; and cash or in-kind contributions to other community groups.[122] Net community benefit activities do not include revenue from uncompensated care pools or programs, such as Low Income Pool or Disproportionate Share Hospital funds.[123]

Proposed Changes

The bill requires that the value of charity care provided by a hospital in each county be compared to the tax value of the hospital's property exemption in each county. If the value of the charity care is less than the tax value of the all of the hospital's exempt property, then the hospital's exemption on each parcel in a county will be reduced to reflect the ratio of the hospital's charity care in the county to the tax value of all of the hospital's exempt property in the county. The language sets forth specific computations for the above.

The bill requires hospitals when applying for the exemption each year to provide their IRS form 990, schedule H, and a schedule displaying; 1) the value of charitable services provided or performed in each Florida county in which a hospital's properties are located; and 2) the portion of charitable services reported by the hospital on its most recently filed IRS Form 990, schedule H, attributable to the services and activities provided or performed by the hospital outside of Florida. The sum of the amounts provided in the schedule must equal the total net community benefit expense reported by the hospital on its most recently filed IRS Form 990, schedule H.

The bill also requires hospitals to provide a statement signed by the hospital's CEO and an independent certified public accountant that the information submitted is true and correct.

Construction Work in Progress

Current Situation

Section 192.001(11(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is

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[118] Id; s. 400.801, F.S. "Home for special services" means a site licensed by AHCA prior to January 1, 2006, where specialized health care services are provided, including personal and custodial care, but not continuous nursing services.
[119] s. 196.197, F.S.
[120] Id.
[121] Id.
[122] James, Julia. Health Affairs, *Nonprofit Hospitals' Community Benefit Requirements* (2016), available at: https://www.healthaffairs.org/do/10.1377/hpb20160225.954803/full/ (last viewed February 28, 2019); Department of the Treasury, Internal Revenue Service, *Instructions for Schedule H (Form 990)* (2018), on file with Health Market Reform Subcommittee Staff.
[123] Department of the Treasury, Internal Revenue Service, *Instructions for Schedule H (Form 990)* (2018), on file with Health Market Reform Subcommittee Staff.

intrinsic to the article itself.[124] All tangible personal property is subject to ad valorem taxation unless expressly exempted.[125] Household goods and personal effects,[126] items of inventory,[127] and up to $25,000 of assessed value for each tangible personal property tax return[128] are exempt from ad valorem taxation. Anyone who owns tangible personal property on January 1 of each year and who has a proprietorship, partnership, or corporation, or is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 each year.[129]

Section 192.001(11)(d), F.S., also defines "construction work in progress" as items consisting of tangible personal property commonly known as fixtures, machinery, and equipment when in the process of being installed in new or expanded improvements to real property and whose value is materially enhanced upon connection or use with a preexisting, taxable, operational system or facility. Construction work in progress is subject to ad valorem taxation when it is deemed to be substantially completed, meaning when it is connected with the preexisting, taxable, operational system or facility.

Proposed Changes

The bill amends s. 192.001(11)(d), F.S., to clarify that for purposes of tangible personal property constructed or installed by an electric utility, construction work in progress shall not be deemed substantially complete unless all permits or approvals required for commercial operation have been received and approved.

Value Adjustment Boards

Current Situation

Part 1 of Chapter 194, F.S., provides for the administrative review of ad valorem tax assessments and exemption denials through local value adjustment boards (VABs). The VAB hearings are a venue in which taxpayers can present their case to a neutral party without the need to hire an attorney or go through the formal process of a circuit court case.

Current law authorizes a property owner to initiate a review by filing a petition with the clerk of the VAB within 25 days of the mailing of the Truth in Millage (TRIM) notice.[130]

In most counties, the VAB hearing takes place in front of a special magistrate instead of the VAB.[131] Special magistrates are experienced appraisers and attorneys who are hired to serve as impartial hearing officers.[132] After the hearing the special magistrate produces a recommended decision which is given to the VAB which produces the final decision. This step does not occur if the VAB hears the petition directly.

Once the final written decision is issued by the VAB, if the petitioner disagrees with the decision, he or she then has 60 days to file an action in circuit court contesting that decision.[133] However, an appeal of a VAB decision by the property appraiser must be filed, if the tax roll has been extended during a VAB

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[124] s. 192.001(11)(d), F.S.
[125] s. 196.001(1), F.S.
[126] s. 196.181, F.S.
[127] s. 196.185, F.S.
[128] s. 196.183, F.S.
[129] s. 193.062, F.S.; see also DOR, Tangible Personal Property, https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx (last visited Feb. 13, 2020).
[130] s. 194.011(3), F.S.
[131] Section 194.035(1), F.S., requires the use of special magistrates in counties with a population over 75,000. Smaller counties may opt to use special magistrates.
[132] s. 194.035(1), F.S.
[133] s. 194.171(2), F.S.

hearing, within 30 days of the certification.[134] In addition, it does not appear that either party is afforded the authority to file a counterclaim to an appeal.

Proposed Changes

As current law requires VAB special magistrates to be qualified individuals, many are familiar with and employed in the appraisal business. The bill strengthens the statutory provisions that address conflict of interest for special magistrates. Specifically, the bill amends s. 194.035(1), F.S., providing that an appraisal performed by a special magistrate may not be submitted as evidence to the value adjustment board in any roll year during which he or she has served on that board as a special magistrate.

The Truth in Millage (TRIM) notice

Current Situation

Each August, a TRIM notice is sent out by the property appraiser to all taxpayers providing specific information about their parcel.[135]

The TRIM notice lists each taxing authority that levies taxes on the property, how much they collected from that parcel in the previous year, how much they propose to collect this year, and how much would be levied on the property if the taxing authority made no budget changes.[136] It also lists the day and time that the taxing authority will be holding its preliminary budget hearing, so that the taxpayer can participate in the process and provide input to the taxing authority if they disagree with the proposed taxes.[137] After this meeting, where a tentative millage (tax) rate and budget are adopted, the taxing authority must then publish the proposed millage rate[138] and the proposed budget[139] in a newspaper of general circulation before holding a meeting for the final adoption of the millage rate and budget.[140] This gives citizens two opportunities to have input into the process of setting the millage rate and budget.

The TRIM notice also provides key information about the valuation of the property. It lists the value the property appraiser has placed on the property, shows any reductions which have been made to that value due to a classification or assessment limitation, and shows what exemptions have been granted on that property and the value of those exemptions.[141] This gives taxpayers notice of the assessment of their property, lets them review any assessment limitations or classifications applied, allows them to check to make sure they are getting all of the exemptions they are entitled to receive, and allows them to dispute any of these matters before the tax bills are sent out.

Proposed Changes

The bill prohibits inclusion in the annual TRIM notice of information or statements not relating to the items that are in the notice. Specifically, the bill amends s. 200.069, F.S., requiring the property appraiser to only include in the mailing of the notice of ad valorem taxes and non-ad valorem assessments additional statements explaining any item in the notice and any other relevant information for property owners.

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[134] s. 193.122(4), F.S.
[135] s. 200.069, F.S.
[136] *Id.*
[137] s. 200.069(4)(g), F.S.
[138] s. 200.065(3), F.S.
[139] s. 200.065(3)(l), F.S.
[140] s. 200.065 (2)(d), F.S.
[141] s. 200.069(6), F.S.

Tourist Development Taxes

Current Situation

The Local Option Tourist Development Act[142] authorizes counties to levy five separate taxes on transient rental[143] transactions ("tourist development taxes" or "TDTs"). Depending on a county's eligibility to levy such taxes, the maximum tax rate varies from a minimum of three percent to a maximum of six percent:

- The original TDT may be levied at the rate of 1 or 2 percent.[144]
- An additional 1 percent tax may be levied by counties who have previously levied a TDT at the 1 or 2 percent rate for at least three years.[145]
- A high tourism impact tax may be levied at an additional 1 percent.[146]
- A professional sports franchise facility tax may be levied up to an additional 1 percent.[147]
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.[148]

TDT Process

Each county that levies the original 1 or 2 percent tax is required to have a "tourist development council."[149] The tourist development council is a group of residents from the county that are appointed by the county governing authority. The tourist development council, among other duties, makes recommendations to the county governing authority for the effective operation of the special projects or for uses of the TDT revenue.

Prior to the authorization of the original 1 or 2 percent TDT, the levy must be approved by a countywide referendum[150] and additional TDT levies must be authorized by a vote of the county's governing authority or by voter approval of a countywide referendum.[151] Each county proposing to levy the original 1 or 2 percent tax must then adopt an ordinance for the levy and imposition of the tax,[152] which must include a plan for tourist development prepared by the tourist development council.[153] The plan for tourist development must include the anticipated net tax revenue to be derived by the county for the two years following the tax levy, as well as a list of the proposed uses of the tax and the approximate cost for each project or use.[154] The plan for tourist development may not be substantially amended except

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[142] s. 125.0104, F.S.
[143] s. 125.0104(3)(a)(1), F.S. considers "transient rental" to be the rental or lease of any accommodation for a term of 6 months or less.
[144] s. 125.0104(3)(c), F.S. Sixty-three counties levy this tax, all at a rate of 2 percent. Office of Economic & Demographic Research (EDR), Local Option Tourist / Food & Beverage Tax Rates, *available at* http://edr.state.fl.us/Content/local-government/data/county-municipal/ (last visited Jan. 25, 2020). These counties are expected to collect an estimated $1.01 billion in revenue in the 2019-2020 state fiscal year. 2019 Local Government Financial Information Handbook, p. 243, *available at* http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf (last visited February 3, 2020).
[145] s. 125.0104(3)(d), F.S. Fifty-four of the eligible 59 counties levy this tax, with an estimated 2019-2020 state fiscal year collection of $169 million. *Id at 263.*
[146] s. 125.0104(3)(m), F.S. Seven of the nine eligible counties levy this tax, with an estimated 2019-2020 state fiscal year collection of $106 million. *Id at 269.*
[147] s. 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and convention centers and to promote and advertise tourism. Forty-five of the 67 eligible counties levy this additional tax, with an estimated 2019-2020 state fiscal year collection of $183 million. *Id at 267.*
[148] s. 125.0104(3)(n) F.S. Thirty of the eligible 65 counties levy the additional professional sports franchise facility tax, with an estimated 2019-2020 state fiscal year collection of $147 million. *Id at 273.*
[149] s. 125.0104(4)(e), F.S.
[150] s. 125.0104(6), F.S.
[151] s. 125.0104(3)(d), F.S.
[152] s. 125.0104(4)(a), F.S.
[153] s. 125.0104(4), F.S.
[154] *See* s. 125.0104(4), F.S.

by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.[155]

TDT Uses

Current statute prescribes the authorized uses of TDT revenues, which includes tourism marketing, water- or beach-oriented projects, and construction of tourist-related facilities.[156] The permitted uses of each local option tax vary according to the particular levy.

Revenues received by a county from a tax levied under s. 125.0104(3)(c) and (d), F.S. (the original 1 or 2 percent levy and the additional 1 percent levy), must be used only for purposes listed in s. 125.0104(5), F.S. Revenues received by a county from a tax levied under s. 125.0104(3)(m), F.S. (the High Tourism Impact Tax of 1%), must also be used for purposes listed in s. 125.0104(5), F.S. These purposes are:

- The acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, or promotion of a zoo.
- Promotion and advertising of tourism in the state.
- Funding of convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies, or by contract with chambers of commerce or similar associations in the county.
- Financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river.[157]
- In counties with populations less than 750,000, tourist development tax revenue may be used for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement, maintenance, operation, or promotion of zoos, fishing piers, or nature centers which are publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.
- A county located adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108, F.S., may use up to 10 percent of the tax revenue received pursuant to this section to reimburse expenses incurred in providing public safety services, including emergency medical services, and law enforcement services, which are needed to address impacts related to increased tourism and visitors to an area.
- Securing revenue bonds issued by the county for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum or financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control.

Revenues received by a county from a tax levied under s. 125.0104(3)(l), F.S., (the 1 levy or the additional 1 percent levy under s. 125.0104(3)(n), F.S.) can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and to promote and advertise tourism. The original 1 percent levy may also be used to operate or maintain a convention center.

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[155] *See* s. 125.0104(4), F.S. The provisions found in ss. 125.0104(4)(a)-(d), F.S., do not apply to the high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.

[156] Florida Legislative Committee on Intergovernmental Relations, Issue Brief: Utilization of Local Option Tourist Taxes by Florida Counties in Fiscal Year 2009-10 (December 2009), available at http://edr.state.fl.us/Content/local-government/reports/localopttourist09.pdf (last visited Jan. 25, 2020).

[157] In counties with populations less than 100,000, up to 10 percent of tourist development tax revenues may be used for financing beach park facilities. *See* s. 125.0104(5)(a), F.S.

The use of TDT revenue for any purpose not expressly authorized in statute is expressly prohibited.[158]

TDT Administration

Section 125.0104(10), F.S., authorizes a county levying TDTs to self-administer the tax, if the county adopts an ordinance providing for the local collection and administration of the tax. A county that chooses to self-administer the taxes must choose whether to assume all responsibility for auditing the records and accounts of dealers and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate this authority to DOR.

Current Collections and Related Expenditures in Miami-Dade County

Based on the Miami-Dade County budget for fiscal year 2019-20,[159] actual TDT collections for 2018-19 were nearly $47 million, comprised of:

- Tourist Development Tax[160] revenues of $31,223,480, and
- Professional Sports Facilities Tax[161] revenues of $15,611,740.

The estimated 2019-2020 collections are nearly $49 million, comprised of:

- Tourist Development Tax revenues of $32,464,000, and
- Professional Sports Facilities Tax revenues of $16,232,000.

These funds were budgeted for use as follows[162]:

- TDT revenues were budgeted for distribution to:
  - The Greater Miami Convention and Visitors Bureau (60% minus a stipend to the Tourist Development Council),
  - The Cultural Affairs Council (within the Miami-Dade County Department of Cultural Affairs) (20%), and
  - City of Miami (20%), which is used for debt service.

- Professional Sports Facilities Tax revenues were exclusively budgeted for debt service.
  - The debt secured and paid by this revenue stream over time has included funds for the Key Biscayne Golf Course, Golf Club of Miami, Orange Bowl Stadium, International Tennis Center, Miami Arena, Homestead Sports Complex, and the Dade International Speedway.[163]

Proposed Changes

The bill expands the list of allowable uses of TDT revenues to include public parks and trails and water quality improvement projects. Allowable water quality improvement projects include, but are not limited to, flood mitigation; seagrass or seaweed removal; algae control, cleanup, or prevention measures; and septic to sewer conversion projects.

The bill also increases from 750,000 to 950,000, the current population threshold under which counties are allowed to use tourist development tax revenue for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement, maintenance, operation, or promotion of zoos, fishing piers, or nature centers which are publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.

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[158] s. 125.0104(5)(e), F.S.
[159] Available at https://www.miamidade.gov/budget/library/fy2019-20/adopted/appendix-o.pdf (last visited February 3, 2020).
[160] s. 125.0104(3)(c), F.S.
[161] s. 125.0104(3)(l), F.S.
[162] Id.
[163] Professional Sports Franchise Facility Tax, available at http://www.miamidade.gov/finance/library/bond-book/2018/special/professional-sports-tax-receipts.pdf (last visited February 3, 2020).

The bill limits the uses of TDT revenues in Miami-Dade County.[164] It allows Miami-Dade County to use TDT revenues to complete the terms of any project or contract in effect as of the date the bill would become law, including debt service on such projects, but does not allow use of revenues for extension of any project, contract, or debt service beyond the terms in effect as of the date the bill would become law. Any revenue not needed for those purposes is redirected to the following:

- 50 percent of the revenues will be distributed back to the local government jurisdictions within which the revenues were collected. For amounts collected and remitted within municipalities, the revenues will be distributed back to each local governing body in proportion to the amount of revenue received from that municipality. For unincorporated areas, revenues will be distributed back to Miami-Dade County. The jurisdictions are authorized to use these revenues to:
  - Promote or advertise tourism, through direct expenditures by the jurisdiction or through an interlocal agreement with the Greater Miami Convention and Visitors Bureau;
  - Reimburse expenses incurred in providing public safety services related to tourism, like emergency medical or law enforcement services, provided that such revenues may not supplant the normal operating expenses incurred for such services; or
  - Finance certain public facility infrastructure projects, if the public facilities are needed to increase tourist-related business activities in the county or subcounty special district and are recommended by the county tourist development council. TDT revenues may also be used for any related land acquisition, land improvement, design, and engineering costs and all other professional and related costs required to bring public facilities into service.[165] Any public facility infrastructure projects are subject to the conditions currently applicable to similar infrastructure projects in s. 125.0104(5)(a)6., F.S.:
    - The use must be approved by a vote of at least two-thirds of the county governing board membership;
    - No more than 70 percent of the cost of the new facilities may be paid for with these TDT revenues;
    - No more than 40 percent of these TDT revenues collected by the county are spent to promote and advertise tourism; and
    - An independent analysis, performed at the expense of the county tourist development council, must demonstrate the positive impact of the infrastructure project on tourist-related business in the county.
  - Acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote parks or trails that are either publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.

- 20 percent of the revenues will be distributed to the county to fund the primary bureau, department, or association responsible for organizing, funding, and promoting opportunities for artists and cultural organizations within the county. The organization currently meeting this criteria is the Miami-Dade Department of Cultural Affairs.[166]

- 30 percent of the revenues will be distributed to the county to be used for any new purpose specified for the current food and beverage tax in s. 212.0306, F.S., renamed the Local Option Coastal Recovery and Resiliency Tax by the bill. These include any one or more of the following, as decided by a majority of the governing board of the county:

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[164] The concept language only affects a county as defined in s. 125.011(1), F.S. Section 125.011(1), F.S., defines "county" as "any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred." This definition currently applies only to Miami-Dade County.

[165] Infrastructure projects are limited to the acquisition, construction, extension, enlargement, remodel, repair, improvement, maintenance, or operation of public facilities in the jurisdiction. "Public facilities" is defined to mean "major capital improvements that have a life expectancy of 5 or more years, including, but not limited to, transportation; sanitary sewer, including solid waste, drainage, and potable water; and pedestrian facilities."

[166] For more information on this organization, visit https://www.miamidadearts.org (Last visited February 3, 2020).

- Water quality improvement projects, including, but not limited to:
  - Flood mitigation,
  - Seagrass or seaweed removal,
  - Algae control, cleanup, or prevention measures,
  - Biscayne Bay and waterway network restoration measures, and
  - Septic to sewer conversion projects.
- Erosion control.
- Mangrove protection.
- Removal of invasive plant and animal species.
- Beach renourishment.
- Purchase of land for conservation purposes.
- Coral reef protection.

Convention Development Taxes

Current Situation

The Convention Development Tax Act[167] authorizes certain counties or sub-parts of counties to levy convention development taxes on transient rental transactions. Depending on a jurisdiction's ability to levy such taxes, the maximum tax rate varies from a minimum of one percent to a maximum of three percent:

- The consolidated county convention tax may be levied at two percent.[168]
- The charter county convention tax may be levied at three percent.[169]
- The special district, special, and subcounty convention tax may be levied at a rate up to three percent.[170]

Duval County (as a county consolidated with a municipality), Miami-Dade County (as a charter county), and parts of Volusia County currently levy the maximum convention development tax allowable in their respective jurisdictions.[171]

CDT Process

CDT levies must be authorized pursuant to an ordinance enacted by the county's governing body.[172] A certified copy of the ordinance imposing the levy must be furnished by the county to DOR within 10 days after approval of such ordinance.[173] The effective date of imposition of the levy can be the first day of any month at least 60 days after enactment of the ordinance. Revenues must be deposited in a convention development trust fund, established by the county before they can receive any CDT funds.[174]

The charter county development tax has an exception for municipalities in which a municipal tourist tax is levied and in which a resolution prohibiting imposition of the charter county convention development levy within such municipality has been adopted.[175] The convention development levy is imposed by the county in all other areas of the county except municipalities which have a municipal tourist tax and which have adopted a resolution. No CDT funds may be used in a municipality which has adopted such

[167] s. 212.0305, F.S.
[168] s. 212.0305(4)(a), F.S.
[169] s. 212.0305(4)(b), F.S.
[170] s. 212.0305(4)(c),(d), and (e), F.S.
[171] Office of Economic & Demographic Research (EDR), Local Option Tourist / Food & Beverage Tax Rates, available at http://edr.state.fl.us/Content/local-government/data/county-municipal/ (last visited Jan. 25, 2020).
[172] s. 212.0305(4)(b)1., F.S.
[173] s. 212.0305(4)(b)6., F.S.
[174] s. 212.0305(4)(b)7., F.S.
[175] s. 212.0305(4)(b)3., F.S.

a resolution. In Miami-Dade County, three jurisdictions have a municipal tourist tax and have adopted a resolution under this provision. Those jurisdictions are Bal Harbour, Miami Beach, and Surfside.[176]

CDT Uses

Generally, the revenues raised by CDT levies may be used for capital construction of convention centers and other tourist-related facilities, as well as tourism promotion; however, the authorized uses vary by levy.

The charter county convention development tax, levied only by Miami-Dade County, is restricted to the following uses:

- Two-thirds of the proceeds were to be used to extend, enlarge, and improve the largest existing publicly owned convention center in the county.[177] Since this project was completed, this tax revenue was authorized for use to acquire, construct, extend, enlarge, remodel, repair, improve, plan for, operate, manage, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, auditoriums, golf courses, or an intercity light rail transportation system.[178]
- One-third of the proceeds were to be used to construct a new multipurpose convention/coliseum/exhibition center/stadium or the maximum components thereof as funds permit in the most populous municipality in the county (Miami).[179] Since this project was completed, tax revenues may be used, as determined by the county, to operate an oversight authority or to acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, auditoriums, golf courses, or related buildings and parking facilities in Miami.[180]

Current Collections and Related Expenditures in Miami-Dade County

In the State Fiscal Year 2019-20, Miami-Dade County will realize an estimated $97,025,000 in CDT revenue.[181] Budgeted expenditures include payments to Miami-Dade County for bond payments for the Performing Arts Center and neighborhood cultural facilities, Performing Arts Center operations, American Airlines Arena operations and maintenance, and interlocal payments to the Cities of Miami Beach and Miami, as well as residual payments to Miami-Dade County for eligible projects.[182]

Proposed Changes

The bill limits the uses of CDT revenues to the following:

- To complete the terms of any project or contract in effect as of the date the bill would become law, including debt service on such projects, but does not allow revenues to be used for extension of any project, contract, or debt service beyond the terms in effect as of the date the bill would become law.
- Any revenue not needed for those purposes is redirected to the following:
  - One-half of the revenues will be distributed back to the municipal jurisdictions within the county. Revenues will be distributed back to each municipality in proportion to the amount of revenue collected in that municipality compared to the revenues collected in all municipalities within the county. The jurisdictions are authorized to use the revenues to acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain one or

[176] Office of Economic & Demographic Research (EDR), Local Option Tourist / Food & Beverage Tax Rates, available at http://edr.state.fl.us/Content/local-government/data/county-municipal/ (last visited Jan. 25, 2020).
[177] s. 212.0305(4)(b)2.a., F.S.
[178] s. 212.0305(4)(b)2.c., F.S.
[179] s. 212.0305(4)(b)2.b., F.S.
[180] s. 212.0305(4)(b)2.d., F.S.
[181] Available at https://www.miamidade.gov/budget/library/fy2019-20/adopted/appendix-o.pdf (last visited February 3, 2020).
[182] Id.

more of the following: a convention center, exhibition hall, coliseum, auditorium, or related building or parking facility in the jurisdiction. They are also authorized to use the revenues to promote and advertise tourism and tourism promotion bureaus or to enter into an interlocal agreement with the county-wide tourism bureau to use the funds.

- One-half of the revenues will be distributed to Miami-Dade County. The county is authorized to use the revenues to acquire, construct, extend, enlarge, remodel, repair, improve, operate, or maintain one or more of the following: a convention center, exhibition hall, coliseum, auditorium, or related building or parking facility in the county. The county may also use the proceeds to fund a countywide convention and visitors bureau which, by interlocal agreement and contract with the county, has been given the primary responsibility for promoting the county and its cities as business and pleasure destinations. The organization currently meeting this criteria is the Greater Miami Convention and Visitors Bureau.[183]

Local Option Food and Beverage Tax

Current Situation

Section 212.0306(1)(a), F.S., authorizes Miami-Dade County to impose, by majority vote of the county's governing body, a 2 percent tax on the sale of food, beverages, and alcoholic beverages in restaurants, coffee shops, snack bars, wet bars, night clubs, banquet halls, catering or room services, and any other food and beverage facilities in or on the property of hotels and motels. Like the tourist development tax, the proceeds of this 2 percent tax must be used to fund a convention bureau or to fund similar tourism promotion activities.[184]

Food and Beverage Tax Process

The levy of the food and beverage tax must be authorized pursuant to an ordinance enacted by the county's governing body.[185] A certified copy of the ordinance imposing the levy must be furnished by the county to DOR within 10 days after approval of such ordinance.[186] The effective date of imposition of the levy can be the first day of any month at least 60 days after enactment of the ordinance.[187] The county must locally administer the tax subject to the same provisions in s. 125.0104, F.S., that local jurisdictions which self-administer tourist development taxes must use.[188]

The food and beverage tax has an exception for municipalities in which a municipal tourist tax is levied.[189] In Miami-Dade County, three jurisdictions have a municipal tourist tax: Bal Harbour, Miami Beach, and Surfside.[190]

Food and Beverage Tax Uses

The revenues raised by the food and beverage tax are to be used to fund a countywide convention and visitors bureau which, by interlocal agreement and contract with the county, has been given the primary responsibility for promoting the county and its cities as business and pleasure destinations. The organization currently meeting this criteria is the Greater Miami Convention and Visitors Bureau.[191] In

[183] For more information on this organization, visit https://www.miamiandbeaches.com/about-gmcvb (Last visited February 3, 2020).
[184] s. 212.0306(3)(a), F.S.
[185] s. 212.0306(1)(a), F.S.
[186] s. 212.0306(4), F.S.
[187] s. 212.0306(5), F.S.
[188] s. 212.0306 (6), F.S.
[189] s. 212.0306(2)(d), F.S.
[190] Office of Economic & Demographic Research (EDR), Local Option Tourist / Food & Beverage Tax Rates, available at http://edr.state.fl.us/Content/local-government/data/county-municipal/ (last visited Jan. 25, 2020).
[191] For more information on this organization, visit https://www.miamiandbeaches.com/about-gmcvb (Last visited February 3, 2020).

the event the interlocal agreement and contract end, the funds are to be used for general tourism purposes consistent with the TDT provisions in ss. 125.0104(5)(a)2. and 3., F.S.

Current Collections and Related Expenditures in Miami-Dade County

In the State Fiscal Year 2019-2020, Miami-Dade County will realize an estimated $8,131,000 in revenue from the food and beverage tax in hotels and motels.[192] Budgeted expenditures include $100,000 to the Tourist Development Council and the remainder to the Greater Miami Convention and Visitors Bureau.

Proposed Changes

The bill names the 2 percent food and beverage tax the "Local Option Coastal Recovery and Resiliency Tax."

The bill redirects the use of tax revenues as follows:

- Funds are used to complete the terms of the contract in effect as of the date the bill would become law but does not allow the use of revenues for the extension of any contract beyond the terms in effect as of the date the bill would become law.
- Any revenue not needed for those purposes is redirected to any one or more of the following, as decided by a majority of the governing board of the county:
  - Water quality improvement projects, including, but not limited to:
    - Flood mitigation,
    - Seagrass or seaweed removal,
    - Algae control, cleanup, or prevention measures,
    - Biscayne Bay and waterway network restoration measures, and
    - Septic to sewer conversion projects.
  - Erosion control.
  - Mangrove protection.
  - Removal of invasive plant and animal species.
  - Beach renourishment.
  - Purchase of land for conservation purposes.
  - Coral reef protection.

Department of Revenue Tax Administration and Oversight Legislative Concepts

General Tax Administration

Extending Documentation Period for Purchases of Boats And Aircraft

Current Situation

Nonresidents[193] who purchase a boat or aircraft in Florida for use in other locations are not required to pay Florida sales tax on their purchase if the item is removed from the state within a statutory time frame and documentation is provided to DOR to show that the boat or aircraft was removed and titled or registered in another jurisdiction. Currently, the following time limits are in statute:

- A purchaser has **30 days** from the date of departure to provide DOR with documentation that the boat or aircraft has been titled or registered in another jurisdiction. If proof of registration is not available within **30 days**, the purchaser must provide evidence that the registration was applied for in another jurisdiction within the timeframe and must send a follow up to DOR with the registration once it has been received.

[192] Available at https://www.miamidade.gov/budget/library/fy2019-20/adopted/appendix-o.pdf (last visited February 3, 2020).
[193] s. 212.05(1)(a)2., F.S., provides that Florida sales tax does not apply to the purchase of a boat or aircraft if the purchaser is, at the time of delivery, (1) a nonresident of the state, (2) not engaged in carrying on a trade or business which would use the boat or aircraft in the state, and (3) not a corporation which has any Florida resident officers or directors.

- A purchaser has **10 days** from the date the boat or aircraft left Florida to provide DOR with proof of the removal.
- The selling dealer has **5 days** from the date of the sale to provide to DOR a copy of the invoice (or other proof of sale) and a copy of the original affidavit from the purchaser attesting that he or she has read the statute on nonresident purchases.

Proposed Changes

The bill extends each of the current statutory deadlines for documentation to allow additional time for the purchaser and dealer to provide information to DOR as follows:

- Proof of titling or registration- **90 days**,
- Proof of removal- **30 days**, and
- Dealer provision of invoice- **30 days**.

Form 1099-K Reporting Requirement

Current Situation:

Section 6050W of the Internal Revenue Code requires certain entities to file a return each year providing information about payments made by credit card or third party merchants.[194] The return is Form 1099-K, and is required to be filed for each calendar year on or before the last day of February of the year following the transactions.[195]

Reportable transactions include any transaction where the payment method is a payment card (credit card, debit card, or similar) or a third party payment system (like PayPal or Apple Pay). The return is filed by the payment settlement entity (e.g., a bank, credit card company, or payment platform like PayPal) and a copy is provided to dealers who have payment card transactions (credit card sales) of any amount, or who have third-party payment transactions (e.g., PayPal) in excess of $20,000 over more than 200 transactions.[196] These sales should be included in the payee's gross income on their tax returns for the year.

Some states require payment settlement entities to submit a copy of any Form 1099-K related to sales in that state or for residents of that state, if the IRS already requires the Form 1099-K to be filed. Examples include Alabama,[197] Tennessee,[198] North Carolina,[199] and New York.[200]

For states that do not require separate copies of Form 1099-K to be filed with them, the IRS provides those returns to the states for tax enforcement purposes.[201] There can be a delay in when that information becomes available to the states, which negatively impacts the state's ability to use the tax data for enforcement purposes. Most states have a limited window in which an audit can take place. In Florida, for example, audits have a three-year statute of limitations.[202] If information is not received quickly from the IRS, then transactions that would have been included in an audit may be outside the statute of limitations by the time they are received.

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[194] 26 U.S. Code s. 6050W(e)
[195] https://www.irs.gov/forms-pubs/about-form-1099-k (last visited February 4, 2020).
[196] https://www.irs.gov/businesses/understanding-your-form-1099-k (last visited February 4, 2020).
[197] https://revenue.alabama.gov/2018/02/new-1099-k-filing-requirement/ (last visited February 4, 2020).
[198] https://www.tn.gov/revenue/taxes/sales-and-use-tax/1099-k-filing-requirement.html (last visited February 4, 2020).
[199] https://www.ncdor.gov/file-pay/guidance-information-reporting#payment-settlement-entity-(1099k) (last visited February 4, 2020).
[200] https://www.tax.ny.gov/bus/multi/reporting_requiremts.htm (last visited February 4, 2020).
[201] This information sharing is authorized by section 6103(d), IRC. The Internal Revenue Manual, Part 11, Chapter 3, Section 32, provides more information about the disclosures to states for tax administration purposes. It is available online at https://www.irs.gov/irm/part11/irm_11-003-032 (last visited February 4, 2020).
[202] S. 95.091(3)(a)1.a., F.S., provides a statute of limitations that allows for assessments of tax "within 3 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later."

Proposed Changes

The bill provides that entities required to file Form 1099-K, must file a copy with DOR electronically within 15 days of filing the federal return. The bill also creates a penalty of $1,000 for each month a required return is not filed with DOR, up to $10,000 per year per reporting entity. This penalty may be waived by DOR if it determines the failure was due to reasonable cause.

Tolling the Period in Which a Taxpayer Can File a Refund Claim

Current Situation

Under Florida law, a taxpayer has the ability to file an application for a refund when they have paid a tax in error, have made an overpayment of tax, or have paid tax when no tax was due.[203] Generally, a taxpayer has three years from the time the tax was paid to apply for the refund.[204]

When a taxpayer has been audited and would like to dispute the outcome of the audit; or when the taxpayer has applied for a refund, been denied, and would like to dispute the refund denial; they have the option to protest their case under s. 213.21, F.S., which provides for informal protest conferences.[205] The informal protest conference process provides taxpayers a separate and independent forum to challenge audit assessments and refund denials.

The time limit for the Department to make a tax assessment is tolled (frozen) during an audit protest under s. 213.21, F.S., thus protecting the state's interest.[206] However, specific statutory authority is not provided to freeze the time limit for a taxpayer to file a refund claim for overpayment of taxes during these same protests.

Proposed Changes

The bill amends s. 213.21, F.S., related to informal audit protests, to provide specific statutory language that, during an informal audit protest, the time limit for a taxpayer to file a refund claim is frozen. This will extend the time a taxpayer has to file a refund claim for an overpayment of taxes arising from the audit period under protest.

Dyed Diesel Fuel Penalty Revision

Current Situation

Florida law allows consumers to purchase diesel fuel free from state and local taxes if used for certain exempt purposes.[207] These purposes are limited to: use on a farm for farming purposes, exclusive use by a local government, use in a vehicle owned by an aircraft museum, exclusive use by the American Red Cross, use in a vessel employed in the business of commercial transportation or in commercial fishing, use in a school bus, use in a local bus service open to the public, exclusive use by a nonprofit educational facility, use in a motor vehicle owned by the US Government which is used off-highway, use in a vessel of war, use for home heating, use in certain off-road or stationary equipment, and use for recreational vessels.[208] Each local government or mass transit system provider that intends to purchase dyed diesel must register with DOR before making exempt purchases.[209]

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[203] s. 215.26(1), F.S.
[204] s. 215.26(2), F.S.
[205] s. 213.21(1)(a), F.S.
[206] S. 213.21(1)(b), F.S.
[207] s. 206.874(1)(a), F.S.
[208] s. 206.874(3), F.S.
[209] s. 206.874(4) and (5), F.S.

Tax free diesel fuel is marked with a red dye[210] and invoices, shipping papers, bills of lading, pumps, and other related items associated with the sale are required to be marked with the statement "Dyed Diesel Fuel, Nontaxable Use Only, Penalty for Taxable Use."[211]

Failure to include the required statement requires a mandatory penalty of $10 for every gallon or $1,000, whichever is greater.[212] This has resulted in large penalties being assessed on taxpayers, even when all tax has been paid, for failure to include the statement "Dyed Diesel Fuel, Nontaxable Use Only, Penalty for Taxable Use" due to the mandatory $10 per gallon penalty requirement.

Proposed Changes

The bill revises the penalty to $2,500 for each month there is a failure to include the notice as required.

Fuel Tax Bond Requirement Increase

Current Situation

Fuel dealers are required to pay taxes either to their supplier or directly to the state.[213] If a fuel dealer is unable to pay their supplier, Florida law allows the supplier to request a bad debt credit from the state.[214] If the entity fails to remit a tax payment directly to the state, a liability is created, and a bill is generated. There may be instances where the state is unable to collect on the bad debt or bill because an entity goes out of business, bankruptcy is filed, or fraud has occurred. Section 206.05, Florida Statutes attempts to mitigate these risks by requiring each taxpayer to obtain a bond.

Sections 206.05 and 206.90, F.S., require fuel tax dealers to file with DOR a bond of not more than $100,000 to allow for recovery of unpaid tax. The amount is described in statute as "approximately 3 times the combined average monthly tax levied...during the preceding 12 calendar months."[215] DOR calculates the bond amount specific to each taxpayer, but cannot impose a bond in excess of the statutory cap.

Based on information provided by DOR, three times the combined average monthly tax levied for motor fuel terminal suppliers is currently $405,209.[216] Three times the average levy for motor fuel wholesalers and importers is $151,459. The three-month average of these two types of motor fuel dealers is currently $278,334.

Proposed Changes

The bill updates the bond amount to $300,000. This amount is slightly higher than the current three-month average tax levied for motor fuel dealers.

Reemployment Tax E-File Revisions

Current Situation:

Currently, an agent who prepared and reported for 100 or more employers in any quarter of the preceding state fiscal year is required to remit reemployment tax payments and file wage reports by electronic means.[217] In addition, any single employer with 10 or more employees in any quarter during

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[210] See Rule 12B-5.140(1), F.A.C., and 48.4082-1(b), Treasury Regulations (February 26, 2002), which specifies the dye "Solvent Red 164 (and no other dye) at a concentration spectrally equivalent to at least 3.9 pounds of the solid dye standard Solvent Red 26 per thousand barrels of diesel fuel."
[211] s. 206.8741(2), F.S.
[212] s. 206.8741(6) and s. 206.872(11), F.S.
[213] See, e.g., s. 206.054(1),(4), F.S.
[214] See s. 206.43, F.S.
[215] s. 206.05(1), F.S.
[216] Email correspondence with DOR staff, Feb. 6, 2020, on file with House Ways and Means Committee.
[217] s. 443.163(1), F.S.

the prior state fiscal year is required to remit reemployment tax reports and payments by electronic means.[218]

If reporting entities fail to file electronically when required by law, then they are subject to a penalty of $50 for the non-electronically-filed report plus $1 per employee included on the report.[219] If they fail to pay electronically when required by law, there is an additional penalty of $50 for each remittance submitted non-electronically.[220]

DOR has the authority to waive the requirement for electronic filing of reports if the filer is unable to comply despite good faith efforts.[221] Reasonable basis to grant this waiver include circumstances in which the employer does not file or store data electronically with any business or government agency, or does not have a computer that meets department standards.[222] Alternative acceptable reasons include the need for programming time, financial hardship, or conflict with business procedures.[223]

An employer or agent also has the ability to request a waiver for the penalty. This waiver request must be in writing and must establish that the imposition of the penalty would be inequitable.[224] Examples of circumstances which would give rise to an inequitable penalty include the death or serious illness of the person responsible for the report, destruction of the records by fire or other casualty, or unscheduled and unavoidable computer downtime.[225]

Corrections to wage reports are able to be submitted electronically, but employers who file and pay electronically are not required to use the electronic method.

Since the electronic filing requirement for agents, and the related penalty, were created, there have been administrative issues in tracking which employers are filing for themselves, and which are filing through an agent. This led to unnecessary billing of agents, and caused confusion for taxpayers and the Department.[226]

DOR reviewed filings under this section and determined that over 99% of returns filed by obligated (required to e-file) agents were e-filed.[227] DOR believes this would continue even without the statutory requirement, as electronic submissions are more efficient than paper filings.[228]

In addition, the DOR reviewed similar provisions in other southern states, and Alabama, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Texas, all elect not to bill agents for this issue.[229]

Proposed Changes

Section 443.163, F.S., is amended to make the following statutory changes:

- Require employers to file corrections electronically if they are required to file reports and make payments electronically;
- Reduce electronic filing penalties so they are consistent with other reemployment tax penalties;[230]

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[218] Id.
[219] s. 443.163(1)(a), F.S.
[220] Id.
[221] s. 443.163(3), F.S.
[222] s. 443.163(3)(a), F.S.
[223] s. 443.163(3)(b), F.S.
[224] s. 443.163(5), F.S.
[225] s. 443.163(5)(a)-(c), F.S.
[226] "Reemployment Tax Agent Requirement" document received from the Department of Revenue on February 4, 2020. On file with the staff of House Ways and Means Committee.
[227] *Id.*
[228] *Id.*
[229] *Id.*
[230] Section 443.141(1)(b)1., F.S., provides for a $25 per month penalty for delinquent reports.

- Remove the requirement for a written penalty waiver request so that waivers can be granted more quickly; and
- Remove the electronic filing and payment requirements and penalty for agents to reduce unnecessary billing.

Electronic Notification

Current Situation

DOR provides taxpayers official notice of actions such as billings, audits, and assessments by United States Postal Service mail delivery.[231] Certain communications, like ongoing communications related to an audit, general taxpayer information publications, or updates to a taxpayer's account, may be conducted using e-mail if requested by the taxpayer.

This limited use of email is consistent with s. 213.053(5)(b), F.S., which specifically provides that DOR is authorized to use e-mail or other electronic means to distribute information relating to changes in law, tax rates, interest rates, or other information that is not specific to a particular taxpayer; to remind taxpayers of due dates; to respond to a taxpayer at an electronic mail address that does not support encryption if the use of that address is authorized by the taxpayer; or to notify taxpayers to contact DOR.

Electronic notification is not used for formal agency action, even in cases where DOR has communicated with the taxpayer for an extended time through electronic means or where the taxpayer requests electronic delivery.

Proposed Changes

The bill provides specific authority for DOR to send taxpayers official notice of actions by electronic means if they receive the affirmative consent of the taxpayer.

Tax Jurisdiction Situsing and Distribution Adjustments

Current Situation

Upon registration with DOR, a business receives a county assignment in DOR's computer system based upon the best available address information. This assignment is used to determine local rates and revenue distributions for certain taxes.

DOR uses several sources to determine the county assignment, including United States Postal Service approved software and DOR's Address/Jurisdiction Database[232] that is used for Communications Services Tax[233] and Insurance Premium Taxes.[234]

The Address/Jurisdiction Database is currently updated twice a year, consistent with statutory requirements.[235] Updates must be provided by local jurisdictions 120 days before changes go into

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[231] Certain taxes provide that notice of agency action should be my personal delivery or registered or certified mail. See, e.g., s. 220.739, F.S. In addition, section 120.569(1), F.S., provides that any notice in any proceeding in which the substantial interests of a party are determined by an agency must be delivered or mailed to each party (or attorney of record) at the address of record.
[232] https://pointmatch.floridarevenue.com/Default.aspx (last visited February 4, 2020).
[233] See s. 202.22(2)(a), F.S., and Rule 12A-19.071, F.A.C., for more information on how the address/jurisdiction database is used for communications services tax purposes.
[234] Insurance Premium Taxes are specific to street addresses. Insurers use the database to assign policies and premiums to local taxing jurisdictions. More information about how the database is used and updated for IPT purposes is available at https://floridarevenue.com/taxes/taxesfees/Pages/ipt.aspx (last visited February 4, 2020).
[235] s. 202.22(2)(b)2., F.S.

effect, and DOR must publish the updates 90 days before they go into effect.[236] Changes to the database are effective each January and July 1.[237]

Currently, local governments are not required to notify DOR of changes to county address information for sales tax purposes, and DOR may be unaware of changes in addresses, annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries which may affect a change in the rate assignment and subsequent revenue distribution.

Section 202.22, F.S., instructs counties and municipalities to furnish DOR with changes and updates to maintain accurate addresses in the Address/Jurisdiction Database for communications services tax purposes; however, some counties and jurisdictions do not routinely do so.

There is no statutory guidance on how to manage occurrences that require revenue distribution adjustments.

Proposed Changes

The bill requires DOR to update the Address/Jurisdiction Database every six months based on information received from counties. Counties will be responsible for providing DOR with any updates necessary to identify subcounty special districts that may be subject to special tourist development taxes under s. 125.0104(3)(b), F.S., unless the county self-administers that tax.

These provisions align with existing requirements for the Address/Jurisdiction Database, and updates will follow the existing January 1/July 1 update schedule.

The bill also provides specific statutory guidance on how sales tax distribution adjustments resulting from address corrections should be addressed. Generally, for distributions of tourist development taxes, convention development taxes, or discretionary sales surtaxes, or for distributions from the Local Government Half-cent Sales Tax Clearing Trust Fund, misallocations caused by an incorrectly assigned address will be corrected moving forward from the date DOR is made aware of the mistake.

- If the county that should have received the distributions has complied with the notification provisions to update the Address/Jurisdiction Database in a timely manner, then misallocations may be corrected by adjusting distributions from the incorrect county to the correct county until the mistake is corrected. Those distributions will be prorated and may be distributed over an extended period, not to exceed three years.
- If the county that should have received the distributions did not comply with the notification provisions to update the Address/Jurisdiction Database in a timely manner, but the county which received the amount in error did update the Database in a timely manner, then the correction will only apply moving forward from the date DOR is made aware of the issue and no re-allocation will occur for past misallocations.
- If the counties would prefer to address the adjustment using an alternative method, they may determine a preferred method and provide a copy of the interlocal agreement setting forth that method to DOR within 90 days of the date DOR is notified of the misallocation.

Property Tax Oversight

Hurricane Michael – Rebuilding Start Time 3 yrs. To 5 Yrs. To Retain Caps

Assessments Limitations

Current Situation

Under current law changes, additions, or improvements to property are assessed at just value on January 1 after the changes, additions, or improvements are substantially completed. Sections 193.155(4)(b) (homesteads), 193.1554(6)(b), (non-homestead residential), and 193.1555(6)(b) (non-

[236] ss. 202.22(2)(b)1. and 2., F.S.
[237] s. 202.22(2)(b)1., F.S.

residential), F.S., stipulate that changes, additions, or improvements that replace all or a portion of property damaged or destroyed by misfortune or calamity shall not increase the assessed value of the property if the square footage of the property, as changed or improved, does not exceed 110 percent of the property before the damage or destruction, or if the square footage of the property, as changed or improved, does not exceed 1500 square feet.

These provisions apply to changes, additions, or improvements commenced within three years after the January 1 following the damage or destruction of the property.

Proposed Changes

The bill would extend from three years to five years the timeframe for commencing changes, additions or improvements that replace all or a portion of property damaged or destroyed by misfortune or calamity. Specifically, it creates s. 193.1557, F.S., to provide that for property damaged or destroyed by Hurricane Michael in 2018, the provisions of sections 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S., shall apply to changes, additions, or improvements commenced within five years after January 1, 2019. These provisions would apply for tax years 2019-2023 and are repealed on December 31, 2023.

Classification of Property

Current Situation

Apartment Classification

Under current law all items that are required by law to be on the assessment rolls must receive a classification based upon the use of the property.[238] Real property must be classified according to the assessment basis of the land. Apartment property is generally assessed in a manner similar to other commercial property but must be classified as multifamily, regardless of the number of units.

Proposed Changes

The bill amends s. 195.073, F.S., to specify that apartment property with more than nine units should be classified as commercial property.

Review of Assessment Rolls

Current Situation

Section 195.096, F.S., requires DOR to conduct an in-depth review of the real property and tangible personal property assessment rolls of each county at least once every two years and report the results of its review to specified legislative staff and county officials. In conducting the assessment ratio studies, the department must adhere to the standards to which the property appraisers are required to adhere to and use all practicable steps to maximize the representativeness or statistical reliability of the samples of properties reviewed.

DOR must complete the review of the county assessment roll and publish the department's finding within 120 days after receiving the roll or within 10 days after the approval of the roll, whichever is later. During the review process, DOR must compute a confidence interval for the overall property tax roll and include in its findings a statement of the confidence interval for the median and any other measures that may be appropriate for each classification or subclassification studied. The results should also include all related statistical and analytical details and measures for the real property assessment roll as a whole and the personal property assessment roll as a whole.

[238] s. 195.073, F.S.

A recently completed Auditor General's report contained findings noting that DOR has not conducted in-depth reviews of tangible personal property and that the department has not met the requirement to compute a confidence interval for the overall property tax roll.

DOR has not conducted in-depth reviews of the tangible personal property rolls in over a decade as a result of the reassignment of staff in the legislative appropriations process. Also, there is no International Association of Assessing Officer guidance for computing a confidence interval for the property tax roll and the department has been unable to locate a statistical procedure for calculating this metric.

Proposed Changes

The bill amends s. 195.096, F.S., to specify that in-depth reviews are only required for real property rolls and to remove statutory language requiring DOR to compute confidence intervals for the overall property tax roll.

TRIM Process Adjustments

Current Situation

Florida law requires local taxing authorities to annually follow the Truth in Millage (TRIM) process. Various noticing requirements, timeframes, and other required procedures are provided in law. During and following natural disasters, the TRIM process may be disrupted but no statutory direction is provided to address any modifications to the process that may be necessary due to the emergency. Historically, Governors have issued executive orders providing the authority for DOR to make the needed adjustments to the process.

Proposed Changes

The bill amends s. 200.065, F.S., to provide alternative deadlines, scheduling requirements, revised notice delivery methods and other procedures that may be used by property appraisers and local taxing authorities as a result of a declared state of emergency.

B. SECTION DIRECTORY:

Section 1. Amends s. 125.0104, F.S., relating to uses of tourist development taxes, to allow counties to use revenues for water quality improvement projects, and to restructure use of TDT funds in certain counties.

Section 2. Amends s. 192.001, F.S.; relating to the definition of "tangible personal property" for ad valorem purposes.

Section 3. Provides that changes made to 192.001 are retroactive to January 1, 2020, and apply to the 2020 ad valorem tax roll.

Section 4. Creates s. 193.1557, F.S., to extend through tax year 2023 certain protections to properties damaged by Hurricane Michael.

Section 5. Amends s. 194.011, F.S., allowing condominium and cooperative associations to represent unit owners in certain proceedings.

Section 6. Amends s. 194.035, F.S., relating to special magistrates; property evaluators.

Section 7. Amends s. 194.181, F.S., allowing condominium and cooperative associations to represent unit owners in certain proceedings.

Section 8. Amends s. 195.073, F.S., relating to classification of real property; revising classification of apartments as residential or commercial real property based on number of units.

Section 9. Amends s. 195.096, F.S., relating to review of property tax rolls.

Section 10. Amends s. 196.173, F.S., relating to property tax exemption for deployed servicemembers.

Section 11. Provides one-time extension to apply for benefits which were affected by changes in section 8 of this act.

Section 12. Amends s. 196.197, F.S, relating to additional provisions for exempting property used by hospitals, nursing homes, and homes for special services.

Section 13. Amends s. 200.065, F.S., providing timing flexibility for the fixing of millage rates during and after a declared state of emergency.

Section 14. Amends s. 200.069, F.S., relating to the notice of proposed property taxes and non-ad valorem assessments (TRIM notice).

Section 15. Amending s. 202.12, F.S., to provide reductions to the state tax rate applied to the sale of communications services.

Section 16. Amending s. 202.12001, F.S., to make conforming changes as a result of the rate reductions to the communications services tax rate.

Section 17. Amending s. 203.001, F.S., to make conforming changes as a result of the rate reductions to CST.

Section 18. Amending s. 206.05, F.S., to update the bonds required for terminal suppliers, importers, exporters, and wholesalers of motor fuels.

Section 19. Amending s. 206.8741, F.S., reducing penalties for dyeing and marking of diesel fuels.

Section 20. Amending s. 206.90, F.S., to update the bonds required for terminal suppliers, importers, and wholesalers of diesel fuels.

Section 21. Amending s. 206.9826, F.S., to increase the refund of aviation fuel tax.

Section 22. Amending s. 212.0305, F.S., to revise authorized uses of convention development taxes.

Section 23. Amending s. 212.0306, F.S., to revise authorized uses of local option food and beverage taxes.

Section 24. Amends s. 212.031, F.S., to reduce the business rent tax from 5.5% to 5.4% beginning in calendar year 2021.

Section 25. Amends s. 212.05, F.S., to extend the deadline for certain documentation to be provided to the Department of Revenue related to the sale of vessels and aircraft.

Section 26. Amends s. 202.055, F.S., to require the reauthorization of the surtax in certain counties and to require that students of charter schools and students of other public schools in a school district are provided proportionate funding from levies under that section.

Section 27. Provides that changes to the sharing of revenues made by section 24 of the act apply only to new levies after July 1, 2020.

Section 28. Creates s. 212.134, F.S., to require certain entities to file reports with the Department of Revenue if required to file reports with the Internal Revenue Service.

Section 29. Creates s. 212.181, F.S., relating to situsing of addresses for sales tax purposes, updates to addresses, and distribution procedures related to situsing issues.

Section 30. Amends s. 212.20, F.S., conforming provisions to the repeal of s. 288.11625, F.S., in section 37.

Section 31. Amends s. 212.205, F.S., conforming provisions to the repeal of s. 288.11625, F.S., in section 37.

Section 32. Amends s. 218.64, F.S., conforming provisions to the repeal of s. 288.11625, F.S., in section 37.

Section 33. Creates s. 213.0357, F.S., to allow the Department of Revenue to send certain communications electronically if requested by the taxpayer.

Section 34. Amends s. 213.21, F.S., to toll the period in which a taxpayer must request a refund during the informal protest of an audit.

Section 35. Amends s. 220.1105, F.S., to revise the calculation of refunds to include the amount taken as a credit under the Florida Tax Credit Scholarship Program.

Section 36. Provides for retroactivity of changes made to s. 220.1105, F.S., by this act.

Section 37. Amends s. 220.1845, F.S., to set the cap for the Brownfields Redevelopment Program Tax Credit at $18.2 million for fiscal year 2020-2021.

Section 38. Amends s. 288.0001, F.S., conforming provisions to the repeal of s. 288.11625, F.S., in section 37.

Section 39. Repeals s. 288.11625, F.S., relating to the Sports Development Program.

Section 40. Amends s. 376.30781, F.S., to set the cap for the Brownfields Redevelopment Program Tax Credit at $18.2 million for fiscal year 2020-2021.

Section 41. Amends s. 413.4021, F.S.; modifying distribution provisions related to the tax collection enforcement diversion program.

Section 42. Amends s. 443.163, F.S., relating to filing requirements and penalties for certain parties required to file reemployment tax returns.

Section 43. Amends s.718.111, F.S.; related to condominium administration as it relates to ad valorem tax protest procedures.

Section 44. Provides an exemption from the sales and use tax for the retail sale of certain clothes, school supplies, and personal computers and related accessories during a specified period; provides an appropriation.

Section 45. Provides an exemption from the sales and use tax for the retail sale of certain supplies related to disaster preparedness during a specified period.

Section 46. Provides an appropriation for implementing the provisions of the act.

Section 47. Directs the Division of Law Revision and Information to replace the phrase "the effective date of this act" with the date the act becomes law.

Section 48. Provides the Department of Revenue with emergency rulemaking authority.

Section 49. Provides effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See FISCAL COMMENTS section.

2. Expenditures:

   See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See FISCAL COMMENTS section.

2. Expenditures:

   See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce the state portion of the communications services tax. The bill will reduce the sales tax on the rental of commercial real estate. The bill provides for a three-day back-to-school sales tax holiday and a seven-day disaster preparedness sales tax holiday.

D. FISCAL COMMENTS:

The total impact of the bill in FY 2020-21 would be -$109.3 million (-$103.3 million recurring) of which -$81.3 million (-$80.7 million recurring) is on General Revenue, -$3.2 million (-$4.8 million recurring) is on state trust funds, and -$24.8 million (-$17.8 million recurring) is on local government (see table below). Total tax reductions embodied in the language 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 -$162.7 million in tax reductions is the sum of -$103.3 million (recurring, excluding appropriations), and -$59.4 million (pure nonrecurring in FY 2020-21).

Appropriations Detail—The $383,500 in General Revenue appropriations contemplated in the language consists of $241,000 to implement the "back-to-school" sales tax holiday, $70,000 to implement the disaster preparedness sales tax holiday and $72,500 to implement the reduction in the business rent tax. Most of these appropriations are needed to pay the cost of notifying several hundred thousand sales tax dealers of either the temporary or permanent law changes.

PCB WMC 20-01
Fiscal Year 2020-21 Estimated Fiscal Impacts (millions of $)

	General Revenue		State Trust Funds		Local		Total	
	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.
Sales Tax: Business Rent Tax/Rate Cut 0.1%	(14.0)	(29.3)	(*)	(*)	(1.8)	(3.8)	(15.8)	(33.1)
Comm Services Tax: Rate Cut 0.5%	(20.9)	(50.1)	(*)	(*)	(4.0)	(9.6)	(24.9)	(59.7)
Sales Tax: BTS Holiday 3 Days	(32.3)	-	(*)	-	(9.5)	-	(41.8)	-
Sales Tax: Tax Holiday/Disaster Preparedness	(4.3)	-	(*)	-	(1.3)	-	(5.6)	-
Sales Tax: Collection Enforcement Diversion Prog.	(0.9)	(0.9)	(*)	(*)	(0.1)	(0.1)	(1.0)	(1.0)
Corporate Income Tax: Brownfields Backlog	(8.2)	-	-	-	-	-	(8.2)	-
Ad Valorem: Deployed Service Discount/Update	-	-	-	-	(*)	(*)	(*)	(*)
Ad Valorem: Hospitals Exemption/Charity Care	-	-	-	-	**	**	**	**
Ad Valorem: Condo Assn Appeal Representation	-	-	-	-	(5.5)	(1.7)	(5.5)	(1.7)
Ad Valorem: Const. Work in Progress/Clarification	-	-	-	-	(2.6)	(2.6)	(2.6)	(2.6)
Fuel Tax: Aviation Tax Cut	(0.3)	(0.4)	(3.2)	(4.8)	-	-	(3.5)	(5.2)
DOR Legislative Concepts:								
Ad Valorem: Hurr. Michael/Extend Rebuild Time	-	-	-	-	-	(**)	-	(**)
Sales Tax: Informational Returns/Credit Cards	-	-	**	**	**	**	**	**
Sales Tax: Statute of Limitations/Refunds	-	-	(**)	(**)	(**)	(**)	(**)	(**)
Appropriations: Tax Holidays & Rate Changes	(0.38)	-	-	-	-	-	(0.38)	-
2020-21 Total	**(81.3)**	**(80.7)**	**(3.2)**	**(4.8)**	**(24.8)**	**(17.8)**	**(109.3)**	**(103.3)**
							Pure Nonrecurring =	
							Recurring + Pure Nonrecurring (2) =	**(162.7)**

(*) Impact less than $50,000; (**) Impact is indeterminate.
(1) Ad valorem tax impacts assume current tax rates.
(2) Recurring tax cut total (excl. appropriations) = -$103.3 million
Pure nonrecurring tax cuts in FY 2020-21= -$59.4 million
-$162.7 million

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Subsection 18(b), art. 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 providing for the expiration of, and requiring a new vote for the readoption of, a discretionary sales surtax as provided in changes to s. 212.055(1), F.S., in this act, represents a reduction in 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 consider the methods for adopting a discretionary sales surtax, then the provisions of this bill (requiring an additional vote to continue levying a current surtax) may be considered a mandate requiring a two-thirds vote of the Legislature.

Additionally, the county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill extends from three years to five years the timeframe for commencing changes, additions or improvements that replace all or a portion of property damaged

or destroyed by Hurricane Michael in order to maintain certain property tax benefits. However, an exemption may apply because this provision likely has an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOR has general rulemaking authority to create rules governing the taxes it administers. The bill authorizes DOR to adopt emergency rules to implement several provisions in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to taxation; amending s. 125.0104,
3 F.S.; authorizing the use of tourist development taxes
4 for certain water quality improvement projects and for
5 certain parks or trails; increasing population
6 thresholds for counties to use tourist development
7 taxes for certain purposes; revising authorized uses
8 of tourist development taxes for specified counties;
9 providing that existing contracts or debt service
10 shall not be impaired; amending s. 192.001, F.S.;
11 specifying the conditions under which certain
12 construction work constructed or installed by certain
13 electric utilities is deemed substantially completed;
14 providing applicability; creating s. 193.1557, F.S.;
15 extending the time period within which certain changes
16 to property damaged or destroyed by Hurricane Michael
17 must commence to prevent the assessed value of the
18 property from increasing; amending s. 194.011, F.S.;
19 authorizing certain associations to represent,
20 prosecute, or defend specified association members in
21 front of the value adjustment board proceedings and
22 subsequent proceedings; providing applicability;
23 amending s. 194.035, F.S.; specifying the
24 circumstances under which a special magistrate's
25 appraisal may not be submitted as evidence to a value

26 adjustment board; amending s. 194.181, F.S.; providing
27 and revising the parties considered as the defendants
28 in tax suits; requiring certain notice to be provided
29 to unit owners in a specified way; providing unit
30 owners options for defending a tax suit; imposing
31 certain actions for unit owners who fail to respond to
32 a specified notice; amending s. 195.073, F.S.;
33 revising the property classifications for certain
34 multifamily housing and commercial and industrial
35 properties; amending s. 195.096, F.S.; removing the
36 requirement for the Department of Revenue to review
37 tangible personal property rolls of each county;
38 revising required computations regarding
39 classifications of property; specifying that
40 properties with more than nine units are commercial
41 property for certain assessment roll purposes;
42 amending s. 196.173, F.S.; revising the military
43 operations that qualify certain servicemembers for an
44 additional ad valorem tax exemption; revising the
45 deadlines for applying for additional ad valorem tax
46 exemptions for certain servicemembers for a specified
47 tax year; amending s. 196.197, F.S.; providing
48 criteria to be used in determining the value of tax
49 exemptions for charitable use of certain hospitals;
50 defining terms; providing application requirements for

51 tax exemptions for certain properties; amending s.
52 200.065, F.S.; providing alternative methods of notice
53 related to the truth in millage process for counties
54 for which a declared state of emergency exists;
55 extending deadlines for notice during a declared state
56 of emergency; revising publication and hearing
57 requirements; providing for automatic extensions of
58 certain deadlines in the event of a declared state of
59 emergency; amending s. 200.069, F.S.; specifying
60 information which property appraisers may include in
61 the notice of ad valorem taxes and non-ad valorem
62 assessments; amending s. 202.12, F.S.; reducing the
63 tax rates applied to the sale of communications
64 services and the retail sale of direct-to-home
65 satellite services after a certain date; amending ss.
66 202.12001 and 203.001, F.S.; conforming provisions to
67 changes made by the act; amending ss. 206.05 and
68 206.90, F.S.; revising the maximum bond amount for
69 licensed terminal suppliers; amending s. 206.8741,
70 F.S.; reducing the penalty imposed for failure to
71 conform to notice requirements related to dyed diesel
72 fuel; amending s. 206.9826, F.S.; increasing the
73 refund available to certain air carriers on the
74 purchase of aviation fuel; amending s. 212.0305, F.S.;
75 revising uses and distribution of the charter county

76 convention development tax for specified counties;
77 providing restrictions on the use of funds; providing
78 that no existing contract or debt service shall be
79 affected; amending s. 212.0306, F.S.; providing a name
80 for the local option food and beverage tax in a
81 certain county; revising approved uses of the proceeds
82 of the tax; prohibiting interlocal agreements and
83 contracts with certain convention and visitors bureaus
84 from being renewed or extended; providing that no
85 existing contract shall be affected; amending s.
86 212.031, F.S.; reducing the tax levied on rental or
87 license fees charged for the use of real property;
88 amending s. 212.05, F.S.; extending the period in
89 which a dealer and nonresident purchaser must provide
90 the state with documentation that a boat or aircraft
91 purchased without the imposition of Florida sales tax
92 will not be used in the state; amending s. 212.055,
93 F.S.; providing an expiration date for the charter
94 county and regional transportation system surtax for a
95 certain county; requiring a resolution to levy the
96 surtax after a certain date; requiring new levies of
97 the charter county and regional transportation system
98 surtax to expire after twenty years unless reenacted
99 by the electors of the county; requiring the
100 resolution to include a statement containing certain

101 information; requiring the resolution to approve a
102 school capital outlay surtax to include specified
103 information; requiring revenues shared with charter
104 schools to be expended by the charter schools in a
105 certain manner; requiring revenues and expenditures to
106 be accounted for in specified charter school financial
107 reports; providing applicability; amending s. 212.134,
108 F.S.; requiring specified entities that must file a
109 return under section 6050W of the Internal Revenue
110 Code to provide copies to the department; specifying
111 procedures for submitting the information; providing
112 penalties; creating s. 212.181, F.S.; providing
113 procedures for jurisdictions to notify the department
114 regarding changes to their business boundaries for
115 certain purposes; providing guidelines for correction
116 of misallocated funds; providing procedures for
117 correcting misallocated funds; providing deadlines for
118 notifying the department of changes to business
119 boundaries; providing rulemaking authority; amending
120 ss. 212.20, 212.205, 218.64, and 288.0001, F.S.;
121 conforming provisions to changes made by the act;
122 creating s. 213.0537, F.S.; authorizing the department
123 to provide certain official correspondence to
124 taxpayers electronically upon the affirmative request
125 of the taxpayer; providing definitions; amending s.

126 213.21, F.S.; tolling the period for filing a claim
127 for refund for certain transactions during certain
128 audit periods; amending s. 220.1105, F.S.; revising
129 the definition of the term "final tax liability" for
130 certain purposes; providing for retroactive
131 application; amending s. 220.1845, F.S.; increasing,
132 for a specified fiscal year, the total amount of
133 contaminated site rehabilitation tax credits;
134 repealing s. 288.11625, F.S., relating to the Sports
135 Development Program; amending s. 376.30781, F.S.;
136 increasing, for a specified fiscal year, the total
137 amount of tax credits for the rehabilitation of
138 drycleaning-solvent-contaminated sites and brownfield
139 sites in designated brownfield areas; amending s.
140 443.163, F.S.; providing that corrections to
141 electronically filed reemployment tax reports must
142 also be filed electronically; revising penalties;
143 removing the requirement for certain parties to file
144 electronically; removing the requirement that requests
145 for waivers from statutory requirements be in writing;
146 amending s. 718.111, F.S.; providing that a
147 condominium association may take certain actions
148 relating to a challenge to ad valorem taxes in its own
149 name or on behalf of unit owners; providing
150 applicability; providing sales tax exemptions for

151 certain clothing, school supplies, personal computers,
152 and personal computer-related accessories during a
153 certain timeframe; defining terms; specifying
154 locations where the exemptions do not apply;
155 authorizing certain dealers to opt out of
156 participating in the exemptions, subject to certain
157 conditions; authorizing the department to adopt
158 emergency rules; providing an appropriation; providing
159 sales tax exemptions for certain disaster preparedness
160 supplies during a certain timeframe; specifying
161 locations where the exemptions do not apply;
162 authorizing the department to adopt emergency rules;
163 providing appropriations; providing a directive to the
164 Division of Law Revision; providing effective dates.
165
166 Be It Enacted by the Legislature of the State of Florida:
167
168 Section 1. Paragraphs (a), (b), and (e) of subsection (5)
169 of section 125.0104, Florida Statutes, are amended, and
170 paragraph (f) is added to that subsection, to read:
171 125.0104 Tourist development tax; procedure for levying;
172 authorized uses; referendum; enforcement.—
173 (5) AUTHORIZED USES OF REVENUE.—
174 (a) <u>Except for counties identified in paragraph (f),</u> all
175 tax revenues received pursuant to this section by a county

176 imposing the tourist development tax shall be used by that
177 county for the following purposes only:
178 1. To acquire, construct, extend, enlarge, remodel,
179 repair, improve, maintain, operate, or promote one or more:
180 a. Publicly owned and operated convention centers, sports
181 stadiums, sports arenas, coliseums, or auditoriums within the
182 boundaries of the county or subcounty special taxing district in
183 which the tax is levied;
184 b. Auditoriums that are publicly owned but are operated by
185 organizations that are exempt from federal taxation pursuant to
186 26 U.S.C. s. 501(c)(3) and open to the public, within the
187 boundaries of the county or subcounty special taxing district in
188 which the tax is levied; or
189 c. Aquariums or museums that are publicly owned and
190 operated or owned and operated by not-for-profit organizations
191 and open to the public, within the boundaries of the county or
192 subcounty special taxing district in which the tax is levied;
193 d. Parks or trails that are publicly owned and operated or
194 owned and operated by not-for-profit organizations and open to
195 the public, within the boundaries of the county or subcounty
196 special taxing district in which the tax is levied;
197 2. To promote zoological parks that are publicly owned and
198 operated or owned and operated by not-for-profit organizations
199 and open to the public;
200 3. To promote and advertise tourism in this state and

201 nationally and internationally; however, if tax revenues are
202 expended for an activity, service, venue, or event, the
203 activity, service, venue, or event must have as one of its main
204 purposes the attraction of tourists as evidenced by the
205 promotion of the activity, service, venue, or event to tourists;
206 4. To fund convention bureaus, tourist bureaus, tourist
207 information centers, and news bureaus as county agencies or by
208 contract with the chambers of commerce or similar associations
209 in the county, which may include any indirect administrative
210 costs for services performed by the county on behalf of the
211 promotion agency;
212 5. To finance beach park facilities, or beach, channel,
213 estuary, or lagoon improvement, maintenance, renourishment,
214 restoration, and erosion control, including construction of
215 beach groins and shoreline protection, enhancement, cleanup, or
216 restoration of inland lakes and rivers to which there is public
217 access as those uses relate to the physical preservation of the
218 beach, shoreline, channel, estuary, lagoon, or inland lake or
219 river. However, any funds identified by a county as the local
220 matching source for beach renourishment, restoration, or erosion
221 control projects included in the long-range budget plan of the
222 state's Beach Management Plan, pursuant to s. 161.091, or funds
223 contractually obligated by a county in the financial plan for a
224 federally authorized shore protection project may not be used or
225 loaned for any other purpose. In counties of fewer than 100,000

226 population, up to 10 percent of the revenues from the tourist
227 development tax may be used for beach park facilities; or
228 6. To acquire, construct, extend, enlarge, remodel,
229 repair, improve, maintain, operate, or finance public facilities
230 within the boundaries of the county or subcounty special taxing
231 district in which the tax is levied, if the public facilities
232 are needed to increase tourist-related business activities in
233 the county or subcounty special district and are recommended by
234 the county tourist development council created pursuant to
235 paragraph (4)(e). Tax revenues may be used for any related land
236 acquisition, land improvement, design and engineering costs, and
237 all other professional and related costs required to bring the
238 public facilities into service. As used in this subparagraph,
239 the term "public facilities" means major capital improvements
240 that have a life expectancy of 5 or more years, including, but
241 not limited to, transportation, sanitary sewer, solid waste,
242 drainage, potable water, and pedestrian facilities. Tax revenues
243 may be used for these purposes only if the following conditions
244 are satisfied:
245 a. In the county fiscal year immediately preceding the
246 fiscal year in which the tax revenues were initially used for
247 such purposes, at least $10 million in tourist development tax
248 revenue was received;
249 b. The county governing board approves the use for the
250 proposed public facilities by a vote of at least two-thirds of

251 its membership;
252 c. No more than 70 percent of the cost of the proposed
253 public facilities will be paid for with tourist development tax
254 revenues, and sources of funding for the remaining cost are
255 identified and confirmed by the county governing board;
256 d. At least 40 percent of all tourist development tax
257 revenues collected in the county are spent to promote and
258 advertise tourism as provided by this subsection; and
259 e. An independent professional analysis, performed at the
260 expense of the county tourist development council, demonstrates
261 the positive impact of the infrastructure project on tourist-
262 related businesses in the county.
263 7. To finance water quality improvement projects,
264 including, but not limited to:
265 a. Flood mitigation.
266 b. Seagrass or seaweed removal.
267 c. Algae control, cleanup, or prevention measures.
268 d. Waterway network restoration measures.
269 e. Septic-to-sewer conversion projects.
270
271 Subparagraphs 1. and 2. may be implemented through service
272 contracts and leases with lessees that have sufficient expertise
273 or financial capability to operate such facilities.
274 (b) Tax revenues received pursuant to this section by a
275 county of less than 950,000 ~~750,000~~ population imposing a

276 tourist development tax may only be used by that county for the
277 following purposes in addition to those purposes allowed
278 pursuant to paragraph (a): to acquire, construct, extend,
279 enlarge, remodel, repair, improve, maintain, operate, or promote
280 one or more zoological parks, fishing piers or nature centers
281 which are publicly owned and operated or owned and operated by
282 not-for-profit organizations and open to the public. All
283 population figures relating to this subsection shall be based on
284 the most recent population estimates prepared pursuant to the
285 provisions of s. 186.901. These population estimates shall be
286 those in effect on July 1 of each year.
287 (e) Any use of the local option tourist development tax
288 revenues collected pursuant to this section for a purpose not
289 expressly authorized by paragraph (3)(l) or paragraph (3)(n) or
290 paragraphs (a)-(d) <u>and (f)</u> of this subsection is expressly
291 prohibited.
292 <u>(f) All tax revenues received pursuant to this section by</u>
293 <u>a county, as defined in s. 125.011(1), imposing the tourist</u>
294 <u>development tax shall be used by that county for the following</u>
295 <u>purposes only:</u>
296 <u>1. Revenues may be used to complete any project underway</u>
297 <u>as of the effective date of this act or to perform any contract</u>
298 <u>in existence on the effective date of this act, pursuant to this</u>
299 <u>section as this section existed before the effective date of</u>
300 <u>this act. Revenues may not be used to renew or extend such</u>

301 contracts or projects. Bonds or other debt outstanding as of the
302 effective date of this act may be refinanced, but the duration
303 of such debt pledging the tourist development tax may not be
304 extended and the outstanding principal may not be increased,
305 except to account for the costs of issuance.
306 2. Revenues not needed for projects, contracts, or debt
307 obligations pursuant to subparagraph 1. shall be distributed and
308 used as follows:
309 a. Fifty percent shall be distributed monthly to the
310 governing boards of municipalities within the county and the
311 county. Distributions to each municipality shall be in
312 proportion to the amount collected in the prior month within
313 each municipality as a share of the total collected in the prior
314 month in the county as a whole. Distributions to the county
315 shall be in proportion to the amount collected in the prior
316 month within the unincorporated area of the county as a share of
317 the total collected in the prior month in the county as a whole.
318 These distributions may be used by the receiving jurisdiction
319 to:
320 (I) Promote and advertise tourism and fund convention
321 bureaus, tourist bureaus, tourist information centers, and news
322 bureaus. Municipalities receiving revenue under this sub-
323 subparagraph may enter into an interlocal agreement to use such
324 revenue to receive services provided by the entity receiving
325 funds under sub-sub-subparagraph s. 212.0305(4)(b)2.b.(III).;

326 (II) Reimburse expenses incurred in providing public
327 safety services, including emergency medical services as defined
328 in s. 401.107(3), and law enforcement services, which are needed
329 to address impacts related to increased tourism and visitors to
330 an area. However, if taxes collected pursuant to this section
331 are used to reimburse emergency medical services or public
332 safety services for tourism or special events, the governing
333 board of a county or municipality may not use such taxes to
334 supplant the normal operating expenses of an emergency medical
335 services department, a fire department, a sheriff's office, or a
336 police department.
337 (III) Acquire, construct, extend, enlarge, remodel, repair,
338 improve, maintain, operate, or promote parks or trails that are
339 publicly owned and operated or owned and operated by not-for-
340 profit organizations and open to the public, within the
341 boundaries of the county or subcounty special taxing district in
342 which the tax is levied
343 (IV) Acquire, construct, extend, enlarge, remodel, repair,
344 improve, maintain, operate, or finance public facilities within
345 the boundaries of the jurisdiction, if the public facilities are
346 needed to preserve or increase tourist-related business
347 activities in the jurisdiction. Tax revenues may be used for any
348 related land acquisition, land improvement, design and
349 engineering costs, and all other professional and related costs
350 required to bring the public facilities into service. As used in

351 this subparagraph, the term "public facilities" means major
352 capital improvements that have a life expectancy of 5 or more
353 years, including, but not limited to, transportation; sanitary
354 sewer, including solid waste, drainage, and potable water; and
355 pedestrian facilities. Tax distributions may be used for these
356 purposes only if the following conditions are satisfied:
357 (A) The governing board approves the use for the proposed
358 public facilities by a vote of at least two-thirds of its
359 membership.
360 (B) No more than 70 percent of the cost of the proposed
361 public facilities will be paid for using tourist development tax
362 revenues, and sources of funding for the remaining costs are
363 identified and confirmed by the jurisdiction's governing board.
364 (C) No more than 40 percent of all tourist development tax
365 revenues distributed to the jurisdiction are spent to promote
366 and advertise tourism as provided by this paragraph.
367 (D) An independent professional analysis, performed at the
368 expense of the jurisdiction, demonstrates the positive impact of
369 the infrastructure project on tourist-related businesses in the
370 jurisdiction.
371 b. Twenty percent shall be distributed to the county to
372 fund the primary bureau, department, or association responsible
373 for organizing, funding, and promoting opportunities for artists
374 and cultural organizations within the county.
375 c. Thirty percent shall be distributed to the governing

376 board of the county and used for one or more of the purposes set
377 forth in the Local Option Coastal Recovery and Resiliency Tax in
378 s. 212.0306(3)(a).
379 Section 2. Effective upon this act becoming a law,
380 paragraph (d) of subsection (11) of section 192.001, Florida
381 Statutes, is amended to read:
382 192.001 Definitions.—All definitions set out in chapters 1
383 and 200 that are applicable to this chapter are included herein.
384 In addition, the following definitions shall apply in the
385 imposition of ad valorem taxes:
386 (11) "Personal property," for the purposes of ad valorem
387 taxation, shall be divided into four categories as follows:
388 (d) "Tangible personal property" means all goods,
389 chattels, and other articles of value (but does not include the
390 vehicular items enumerated in s. 1(b), Art. VII of the State
391 Constitution and elsewhere defined) capable of manual possession
392 and whose chief value is intrinsic to the article itself.
393 "Construction work in progress" consists of those items of
394 tangible personal property commonly known as fixtures,
395 machinery, and equipment when in the process of being installed
396 in new or expanded improvements to real property and whose value
397 is materially enhanced upon connection or use with a
398 preexisting, taxable, operational system or facility.
399 Construction work in progress shall be deemed substantially
400 completed when connected with the preexisting, taxable,

401 operational system or facility. For the purposes of tangible
402 personal property constructed or installed by an electric
403 utility, construction work in progress is not deemed
404 substantially completed unless all permits or approvals required
405 for commercial operation have been received or approved.
406 Inventory and household goods are expressly excluded from this
407 definition.
408 Section 3. The amendment made by this act to s. 192.001,
409 Florida Statutes, first applies to the 2020 property tax roll
410 and operates retroactively to January 1, 2020.
411 Section 4. Section 193.1557, Florida Statutes, is created
412 to read:
413 193.1557 Assessment of certain property damaged or
414 destroyed by Hurricane Michael.—For property damaged or
415 destroyed by Hurricane Michael in 2018, s. 193.155(4)(b), s.
416 193.1554(6)(b), or s. 193.1555(6)(b) applies to changes,
417 additions, or improvements commenced within 5 years after
418 January 1, 2019. This section applies to the for tax years 2019-
419 2023 and shall stand repealed on December 31, 2023.
420 Section 5. Paragraph (e) of subsection (3) of section
421 194.011, Florida Statutes, is amended to read:
422 194.011 Assessment notice; objections to assessments.—
423 (3) A petition to the value adjustment board must be in
424 substantially the form prescribed by the department.
425 Notwithstanding s. 195.022, a county officer may not refuse to

426 accept a form provided by the department for this purpose if the
427 taxpayer chooses to use it. A petition to the value adjustment
428 board must be signed by the taxpayer or be accompanied at the
429 time of filing by the taxpayer's written authorization or power
430 of attorney, unless the person filing the petition is listed in
431 s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a
432 petition with a value adjustment board without the taxpayer's
433 signature or written authorization by certifying under penalty
434 of perjury that he or she has authorization to file the petition
435 on behalf of the taxpayer. If a taxpayer notifies the value
436 adjustment board that a petition has been filed for the
437 taxpayer's property without his or her consent, the value
438 adjustment board may require the person filing the petition to
439 provide written authorization from the taxpayer authorizing the
440 person to proceed with the appeal before a hearing is held. If
441 the value adjustment board finds that a person listed in s.
442 194.034(1)(a) willfully and knowingly filed a petition that was
443 not authorized by the taxpayer, the value adjustment board shall
444 require such person to provide the taxpayer's written
445 authorization for representation to the value adjustment board
446 clerk before any petition filed by that person is heard, for 1
447 year after imposition of such requirement by the value
448 adjustment board. A power of attorney or written authorization
449 is valid for 1 assessment year, and a new power of attorney or
450 written authorization by the taxpayer is required for each

451 subsequent assessment year. A petition shall also describe the
452 property by parcel number and shall be filed as follows:
453 (e)1. A condominium association, as defined in s. 718.103,
454 a cooperative association, as defined in s. 719.103, or any
455 homeowners' association, as defined in s. 723.075, with approval
456 of its board of administration or directors, may file with the
457 value adjustment board a single joint petition on behalf of any
458 association members who own units or parcels of property which
459 the property appraiser determines are substantially similar with
460 respect to location, proximity to amenities, number of rooms,
461 living area, and condition. The condominium association,
462 cooperative association, or homeowners' association ~~as defined~~
463 ~~in s. 723.075~~ shall provide the unit or parcel owners with
464 notice of its intent to petition the value adjustment board and
465 shall provide at least 20 days for a unit or parcel owner to
466 elect, in writing, that his or her unit or parcel not be
467 included in the petition.
468 2. A condominium association, as defined in s. 718.103, or
469 a cooperative association, as defined in s. 719.103, that has
470 filed a single joint petition under this subsection may continue
471 to represent, prosecute, and defend the unit owners through any
472 related subsequent proceeding in any tribunal, including
473 judicial review under part II of this chapter and any appeals.
474 This subparagraph is intended to clarify existing law and
475 applies to cases pending on July 1, 2020.

476 Section 6. Subsection (1) of section 194.035, Florida
477 Statutes, is amended to read:
478 194.035 Special magistrates; property evaluators.—
479 (1) In counties having a population of more than 75,000,
480 the board shall appoint special magistrates for the purpose of
481 taking testimony and making recommendations to the board, which
482 recommendations the board may act upon without further hearing.
483 These special magistrates may not be elected or appointed
484 officials or employees of the county but shall be selected from
485 a list of those qualified individuals who are willing to serve
486 as special magistrates. Employees and elected or appointed
487 officials of a taxing jurisdiction or of the state may not serve
488 as special magistrates. The clerk of the board shall annually
489 notify such individuals or their professional associations to
490 make known to them that opportunities to serve as special
491 magistrates exist. The Department of Revenue shall provide a
492 list of qualified special magistrates to any county with a
493 population of 75,000 or less. Subject to appropriation, the
494 department shall reimburse counties with a population of 75,000
495 or less for payments made to special magistrates appointed for
496 the purpose of taking testimony and making recommendations to
497 the value adjustment board pursuant to this section. The
498 department shall establish a reasonable range for payments per
499 case to special magistrates based on such payments in other
500 counties. Requests for reimbursement of payments outside this

501 range shall be justified by the county. If the total of all
502 requests for reimbursement in any year exceeds the amount
503 available pursuant to this section, payments to all counties
504 shall be prorated accordingly. If a county having a population
505 less than 75,000 does not appoint a special magistrate to hear
506 each petition, the person or persons designated to hear
507 petitions before the value adjustment board or the attorney
508 appointed to advise the value adjustment board shall attend the
509 training provided pursuant to subsection (3), regardless of
510 whether the person would otherwise be required to attend, but
511 shall not be required to pay the tuition fee specified in
512 subsection (3). A special magistrate appointed to hear issues of
513 exemptions, classifications, and determinations that a change of
514 ownership, a change of ownership or control, or a qualifying
515 improvement has occurred shall be a member of The Florida Bar
516 with no less than 5 years' experience in the area of ad valorem
517 taxation. A special magistrate appointed to hear issues
518 regarding the valuation of real estate shall be a state
519 certified real estate appraiser with not less than 5 years'
520 experience in real property valuation. A special magistrate
521 appointed to hear issues regarding the valuation of tangible
522 personal property shall be a designated member of a nationally
523 recognized appraiser's organization with not less than 5 years'
524 experience in tangible personal property valuation. A special
525 magistrate need not be a resident of the county in which he or

526 she serves. A special magistrate may not represent a person
527 before the board in any tax year during which he or she has
528 served that board as a special magistrate. An appraisal
529 performed by a special magistrate who served on the board as a
530 special magistrate during the tax year may not be submitted as
531 evidence to the value adjustment board. Before appointing a
532 special magistrate, a value adjustment board shall verify the
533 special magistrate's qualifications. The value adjustment board
534 shall ensure that the selection of special magistrates is based
535 solely upon the experience and qualifications of the special
536 magistrate and is not influenced by the property appraiser. The
537 special magistrate shall accurately and completely preserve all
538 testimony and, in making recommendations to the value adjustment
539 board, shall include proposed findings of fact, conclusions of
540 law, and reasons for upholding or overturning the determination
541 of the property appraiser. The expense of hearings before
542 magistrates and any compensation of special magistrates shall be
543 borne three-fifths by the board of county commissioners and two-
544 fifths by the school board. When appointing special magistrates
545 or when scheduling special magistrates for specific hearings,
546 the board, the board attorney, and the board clerk may not
547 consider the dollar amount or percentage of any assessment
548 reductions recommended by any special magistrate in the current
549 year or in any previous year.
550 Section 7. Subsection (2) of section 194.181, Florida

551 Statutes, is amended to read:
552 194.181 Parties to a tax suit.—
553 (2)(a) In any case brought by a ~~the~~ taxpayer or a
554 condominium or cooperative association, as defined in ss.
555 718.103 and 719.103 respectively, on behalf of some or all unit
556 owners, contesting the assessment of any property, the county
557 property appraiser is the ~~shall be~~ party defendant.
558 (b) In any case brought by the property appraiser under
559 ~~pursuant to~~ s. 194.036(1)(a) or (b), the taxpayer is the ~~shall~~
560 ~~be~~ party defendant.
561 (c)1. In any case brought by the property appraiser under
562 s. 194.036(1)(a) or (b) concerning a value adjustment board
563 decision on a single joint petition filed by a condominium or
564 cooperative association under s. 194.011(3), the association and
565 all unit owners included in the single joint petition are the
566 party defendants.
567 2. The condominium or cooperative association must provide
568 unit owners with notice of its intent to respond to or answer
569 the property appraiser's complaint and advise the unit owners
570 that they may elect to:
571 a. Retain their own counsel to defend the appeal;
572 b. Choose not to defend the appeal; or
573 c. Be represented together with other unit owners in the
574 response or answer filed by the association.
575 3. The notice required in subparagraph 2. must be hand-

576 delivered or sent by certified mail, return receipt requested,
577 to the unit owners and posted conspicuously on the condominium
578 or cooperative property in the same manner as notice of board
579 meetings under ss. 718.112(2) and 719.106(1), except that such
580 notice may be electronically transmitted to a unit owner who has
581 expressly consented in writing to receiving such notices through
582 electronic transmission. The association must provide at least
583 20 days for unit owners to respond to the notice. Any unit owner
584 who fails to respond to the association's notice will be
585 represented in the response or answer filed by the association.
586 (d) In any case brought by the property appraiser under
587 ~~pursuant to~~ s. 194.036(1)(c), the value adjustment board is the
588 ~~shall be~~ party defendant.
589 Section 8. Paragraphs (a) and (b) of subsection (1) of
590 section 195.073, Florida Statutes, are amended to read:
591 195.073 Classification of property.—All items required by
592 law to be on the assessment rolls must receive a classification
593 based upon the use of the property. The department shall
594 promulgate uniform definitions for all classifications. The
595 department may designate other subclassifications of property.
596 No assessment roll may be approved by the department which does
597 not show proper classifications.
598 (1) Real property must be classified according to the
599 assessment basis of the land into the following classes:
600 (a) Residential, subclassified into categories, one

601 category for homestead property and one for nonhomestead
602 property:
603 1. Single family.
604 2. Mobile homes.
605 3. Multifamily, up to nine units.
606 4. Condominiums.
607 5. Cooperatives.
608 6. Retirement homes.
609 (b) Commercial and industrial, including apartment with
610 more than nine units.
611 Section 9. Subsection (2) and paragraph (a) of subsection
612 (3) of section 195.096, Florida Statutes, are amended to read:
613 195.096 Review of assessment rolls.—
614 (2) The department shall conduct, no less frequently than
615 once every 2 years, an in-depth review of the real property
616 assessment roll ~~rolls~~ of each county. The department need not
617 individually study every use-class of property set forth in s.
618 195.073, but shall at a minimum study the level of assessment in
619 relation to just value of each classification specified in
620 subsection (3). Such in-depth review may include proceedings of
621 the value adjustment board and the audit or review of procedures
622 used by the counties to appraise property.
623 (a) The department shall, at least 30 days prior to the
624 beginning of an in-depth review in any county, notify the
625 property appraiser in the county of the pending review. At the

626 request of the property appraiser, the department shall consult
627 with the property appraiser regarding the classifications and
628 strata to be studied, in order that the review will be useful to
629 the property appraiser in evaluating his or her procedures.
630 (b) Every property appraiser whose upcoming roll is
631 subject to an in-depth review shall, if requested by the
632 department on or before January 1, deliver upon completion of
633 the assessment roll a list of the parcel numbers of all parcels
634 that did not appear on the assessment roll of the previous year,
635 indicating the parcel number of the parent parcel from which
636 each new parcel was created or "cut out."
637 (c) In conducting assessment ratio studies, the department
638 must use all practicable steps, including stratified statistical
639 and analytical reviews and sale-qualification studies, to
640 maximize the representativeness or statistical reliability of
641 samples of properties in tests of each classification, stratum,
642 or roll made the subject of a ratio study published by it. The
643 department shall document and retain records of the measures of
644 representativeness of the properties studied in compliance with
645 this section. Such documentation must include a record of
646 findings used as the basis for the approval or disapproval of
647 the tax roll in each county pursuant to s. 193.1142. In
648 addition, to the greatest extent practicable, the department
649 shall study assessment roll strata by subclassifications such as
650 value groups and market areas for each classification or stratum

651 to be studied, to maximize the representativeness of ratio study
652 samples. For purposes of this section, the department shall rely
653 primarily on an assessment-to-sales-ratio study in conducting
654 assessment ratio studies in those classifications of property
655 specified in subsection (3) for which there are adequate market
656 sales. The department shall compute the median and the value-
657 weighted mean for each classification or subclassification
658 studied and for the roll as a whole.
659 (d) In the conduct of these reviews, the department shall
660 adhere to all standards to which the property appraisers are
661 required to adhere.
662 (e) The department and each property appraiser shall
663 cooperate in the conduct of these reviews, and each shall make
664 available to the other all matters and records bearing on the
665 preparation and computation of the reviews. The property
666 appraisers shall provide any and all data requested by the
667 department in the conduct of the studies, including electronic
668 data processing tapes. Any and all data and samples developed or
669 obtained by the department in the conduct of the studies shall
670 be confidential and exempt from the provisions of s. 119.07(1)
671 until a presentation of the findings of the study is made to the
672 property appraiser. After the presentation of the findings, the
673 department shall provide any and all data requested by a
674 property appraiser developed or obtained in the conduct of the
675 studies, including tapes. Direct reimbursable costs of providing

676 the data shall be borne by the party who requested it. Copies of
677 existing data or records, whether maintained or required
678 pursuant to law or rule, or data or records otherwise
679 maintained, shall be submitted within 30 days from the date
680 requested, in the case of written or printed information, and
681 within 14 days from the date requested, in the case of
682 computerized information.
683 (f) Within 120 days after receipt of a county assessment
684 roll by the executive director of the department pursuant to s.
685 193.1142(1), or within 10 days after approval of the assessment
686 roll, whichever is later, the department shall complete the
687 review for that county and publish the department's findings.
688 The findings must include ~~a statement of the confidence interval~~
689 ~~for the median and such other~~ measures as may be appropriate for
690 each classification or subclassification studied ~~and for the~~
691 ~~roll as a whole,~~ and related statistical and analytical details.
692 The measures in the findings must be based on:
693 1. A 95-percent level of confidence; or
694 2. Ratio study standards that are generally accepted by
695 professional appraisal organizations in developing a
696 statistically valid sampling plan if a 95-percent level of
697 confidence is not attainable.
698 (3)(a) Upon completion of review pursuant to paragraph
699 (2)(f), the department shall publish the results of reviews
700 conducted under this section. The results must include all

701 statistical and analytical measures computed under this section
702 for the real property assessment roll ~~as a whole, the personal~~
703 ~~property assessment roll as a whole,~~ and independently for the
704 following real property classes if the classes constituted 5
705 percent or more of the total assessed value of real property in
706 a county on the previous tax roll:
707 1. Residential property that consists of one primary
708 living unit, including, but not limited to, single-family
709 residences, condominiums, cooperatives, and mobile homes.
710 2. Residential property that consists of two to nine ~~or~~
711 ~~more~~ primary living units.
712 3. Agricultural, high-water recharge, historic property
713 used for commercial or certain nonprofit purposes, and other
714 use-valued property.
715 4. Vacant lots.
716 5. Nonagricultural acreage and other undeveloped parcels.
717 6. Improved commercial and industrial property, including
718 apartment with more than nine units.
719 7. Taxable institutional or governmental, utility, locally
720 assessed railroad, oil, gas and mineral land, subsurface rights,
721 and other real property.
722
723 If one of the above classes constituted less than 5 percent of
724 the total assessed value of all real property in a county on the
725 previous assessment roll, the department may combine it with one

726 or more other classes of real property for purposes of
727 assessment ratio studies or use the weighted average of the
728 other classes for purposes of calculating the level of
729 assessment for all real property in a county. The department
730 shall also publish such results for any subclassifications of
731 the classes or assessment roll~~s~~ it may have chosen to study.
732 Section 10. Effective upon this act becoming a law and
733 applying to ad valorem tax rolls for the 2020 tax year and
734 thereafter, subsection (2) of section 196.173, Florida Statutes,
735 is amended to read:
736 196.173 Exemption for deployed servicemembers.—
737 (2) The exemption is available to servicemembers who were
738 deployed during the preceding calendar year on active duty
739 outside the continental United States, Alaska, or Hawaii in
740 support of any of the following military operations:
741 (a) Operation Joint Task Force Bravo, which began in 1995.
742 (b) Operation Joint Guardian, which began on June 12,
743 1999.
744 (c) Operation Noble Eagle, which began on September 15,
745 2001.
746 ~~(d) Operation Enduring Freedom, which began on October 7,~~
747 ~~2001, and ended on December 31, 2014.~~
748 (d) ~~(e)~~ Operations in the Balkans, which began in 2004.
749 (e) ~~(f)~~ Operation Nomad Shadow, which began in 2007.
750 (f) ~~(g)~~ Operation U.S. Airstrikes Al Qaeda in Somalia,

751 which began in January 2007.
752 (g) ~~(h)~~ Operation Copper Dune, which began in 2009.
753 (h) ~~(i)~~ Operation Georgia Deployment Program, which began
754 in August 2009.
755 (i) ~~(j)~~ Operation Spartan Shield, which began in June 2011.
756 (j) ~~(k)~~ Operation Observant Compass, which began in October
757 2011.
758 (k) ~~(l)~~ Operation Inherent Resolve, which began on August
759 8, 2014.
760 (l) ~~(m)~~ Operation Atlantic Resolve, which began in April
761 2014.
762 (m) ~~(n)~~ Operation Freedom's Sentinel, which began on
763 January 1, 2015.
764 (n) ~~(o)~~ Operation Resolute Support, which began in January
765 2015.
766 (o) Operation Juniper Shield, which began in February
767 2007.
768 (p) Operation Pacific Eagle which began in September 2017.
769 (q) Operation Martillo, which began in January 2012.
770
771 The Department of Revenue shall notify all property appraisers
772 and tax collectors in this state of the designated military
773 operations.
774 Section 11. Application deadline for additional ad valorem
775 tax exemption for specified deployments.—

776 (1) Notwithstanding the filing deadlines contained in s.
777 196.173(6), Florida Statutes, the deadline for an applicant to
778 file an application with the property appraiser for an
779 additional ad valorem tax exemption under s. 196.173, Florida
780 Statutes, for the 2020 tax year is June 1, 2020.
781 (2) If an application is not timely filed under subsection
782 (1), a property appraiser may grant the exemption if:
783 (a) The applicant files an application for the exemption
784 on or before the 25th day after the property appraiser mails the
785 notice required under s. 194.011(1), Florida Statutes;
786 (b) The applicant is qualified for the exemption; and
787 (c) The applicant produces sufficient evidence, as
788 determined by the property appraiser, which demonstrates that
789 the applicant was unable to apply for the exemption in a timely
790 manner or otherwise demonstrates extenuating circumstances that
791 warrant granting the exemption.
792 (3) If the property appraiser denies an application under
793 subsection (2), the applicant may file, pursuant to s.
794 194.011(3), Florida Statutes, a petition with the value
795 adjustment board which requests that the exemption be granted.
796 Such petition must be filed on or before the 25th day after the
797 property appraiser mails the notice required under s.
798 194.011(1), Florida Statutes. Notwithstanding s. 194.013,
799 Florida Statutes, the eligible servicemember is not required to
800 pay a filing fee for such petition. Upon reviewing the petition,

801 the value adjustment board may grant the exemption if the
802 applicant is qualified for the exemption and demonstrates
803 extenuating circumstances, as determined by the board, that
804 warrant granting the exemption.
805 (4) This section is effective upon this act becoming a law
806 and applies to ad valorem tax rolls for the 2020 tax year and
807 thereafter.
808 Section 12. Subsection (3) is added to section 196.197,
809 Florida Statutes, to read:
810 196.197 Additional provisions for exempting property used
811 by hospitals, nursing homes, and homes for special services.—In
812 addition to criteria for granting exemptions for charitable use
813 of property set forth in other sections of this chapter,
814 hospitals, nursing homes, and homes for special services shall
815 be exempt to the extent that they meet the following criteria:
816 (3)(a) The county property appraiser shall make the
817 calculations described in this paragraph. In determining the
818 extent of the exemption to be granted to institutions licensed
819 as hospitals, the unadjusted exempt value of a parcel and the
820 unadjusted exempt value of tangible personal property shall be
821 multiplied by a fraction, not to exceed one, the numerator of
822 which is the county net community benefit expense, as determined
823 under paragraph (b), and the denominator of which is the county
824 tax assessment. For purposes of this subsection:
825 1. The term "unadjusted exempt value" means the value

826 exempted in a tax year for the charitable use of property as
827 provided in other sections of this chapter and as limited by
828 subsections (1) and (2).
829 2. The term "adopted millage rate applicable to the
830 parcel" is the sum of all ad valorem tax rates levied by all
831 taxing jurisdictions within which a parcel is located.
832 3. The term "parcel tax assessment" is the product of the
833 unadjusted exempt value for a parcel for the immediately prior
834 year and the most recent final adopted millage rate applicable
835 to the parcel.
836 4. The term "adopted millage rate applicable to the
837 tangible personal property" is the sum of all ad valorem tax
838 rates levied by all taxing jurisdictions within which tangible
839 personal property is located.
840 5. The term "tangible personal property tax assessment" is
841 the product of the unadjusted exempt value for tangible personal
842 property for the immediately prior year and the most recent
843 final adopted millage rate applicable to the tangible personal
844 property.
845 6. The term "county tax assessment" is the sum of all
846 parcel tax assessments and tangible personal property tax
847 assessments in a county for property owned by the applicant and
848 for which an exemption is being sought.
849 (b) The county net community benefit expense, to be
850 determined by the applicant, is that portion of the net

851 community benefit expense reported by the applicant on its most
852 recently filed Internal Revenue Service Form 990, schedule H,
853 attributable to those services and activities provided or
854 performed by the hospital in a county.
855 (c) The application by a hospital for an exemption under
856 this section must include, but is not limited to:
857 1. A copy of the hospital owner's most recently filed
858 Internal Revenue Service Form 990, schedule H.
859 2. A schedule displaying:
860 a. The county net community benefit expense for each
861 county in this state in which properties are located;
862 b. The portion of net community benefit expense reported
863 by the applicant on its most recently filed Internal Revenue
864 Service Form 990, schedule H, attributable to those services and
865 activities provided or performed by the hospital outside of this
866 state; and
867 c. The sum of amounts provided under sub-subparagraphs a.
868 and b., which must equal the total net community benefit expense
869 reported by the applicant on its most recently filed Internal
870 Revenue Service Form 990, schedule H.
871 3. A statement signed by the hospital's chief executive
872 officer and independent certified public accountant that, upon
873 each person's reasonable knowledge and belief, the statement of
874 the county net community benefit expense is true and correct.
875 Section 13. Effective upon this act becoming a law,

876 paragraphs (b) through (f) of subsection (2) of section 200.065,
877 Florida Statutes, are amended to read:
878 200.065 Method of fixing millage.—
879 (2) No millage shall be levied until a resolution or
880 ordinance has been approved by the governing board of the taxing
881 authority which resolution or ordinance must be approved by the
882 taxing authority according to the following procedure:
883 (b) Within 35 days of certification of value pursuant to
884 subsection (1), each taxing authority shall advise the property
885 appraiser of its proposed millage rate, of its rolled-back rate
886 computed pursuant to subsection (1), and of the date, time, and
887 place at which a public hearing will be held to consider the
888 proposed millage rate and the tentative budget. The property
889 appraiser shall utilize this information in preparing the notice
890 of proposed property taxes pursuant to s. 200.069. The deadline
891 for mailing the notice shall be the later of 55 days after
892 certification of value pursuant to subsection (1) or 10 days
893 after either the date the tax roll is approved or the interim
894 roll procedures under s. 193.1145 are instituted. <u>However, for</u>
895 <u>counties for which a state of emergency was declared by</u>
896 <u>executive order or proclamation of the Governor pursuant to</u>
897 <u>chapter 252, if mailing is not possible during the state of</u>
898 <u>emergency, the property appraiser may post the notice on the</u>
899 <u>county's website.</u> If the deadline for mailing the notice of
900 proposed property taxes is 10 days after the date the tax roll

901 is approved or the interim roll procedures are instituted, all
902 subsequent deadlines provided in this section shall be extended.
903 In addition, the deadline for mailing the notice may be extended
904 for 30 days in counties for which a state of emergency was
905 declared by executive order or proclamation of the Governor
906 pursuant to chapter 252, and property appraisers may use
907 alternate methods of distribution only when mailing the notice
908 is not possible. In such event, however, property appraisers
909 must work with county tax collectors to ensure the timely
910 assessment and collection of taxes. The number of days by which
911 the deadlines shall be extended shall equal the number of days
912 by which the deadline for mailing the notice of proposed taxes
913 is extended beyond 55 days after certification. If any taxing
914 authority fails to provide the information required in this
915 paragraph to the property appraiser in a timely fashion, the
916 taxing authority shall be prohibited from levying a millage rate
917 greater than the rolled-back rate computed pursuant to
918 subsection (1) for the upcoming fiscal year, which rate shall be
919 computed by the property appraiser and used in preparing the
920 notice of proposed property taxes. Each multicounty taxing
921 authority that levies taxes in any county that has extended the
922 deadline for mailing the notice due to a declared state of
923 emergency and that has noticed hearings in other counties must
924 advertise the hearing at which it intends to adopt a tentative
925 budget and millage rate in a newspaper of general paid

926 circulation within each county not less than 2 days or more than
927 5 days before the hearing.
928 (d) Within 15 days after the meeting adopting the
929 tentative budget, the taxing authority shall advertise in a
930 newspaper of general circulation in the county as provided in
931 subsection (3), its intent to finally adopt a millage rate and
932 budget. A public hearing to finalize the budget and adopt a
933 millage rate shall be held not less than 2 days nor more than 5
934 days after the day that the advertisement is first published. In
935 the event of a need to postpone or recess the final meeting due
936 to a declared state of emergency, the taxing authority may
937 postpone or recess the hearing for up to 7 days and shall post a
938 prominent notice at the place of the original hearing showing
939 the date, time, and place where the hearing will be reconvened.
940 The posted notice shall measure not less than 8.5 by 11 inches.
941 The taxing authority shall make every reasonable effort to
942 provide reasonable notification of the continued hearing to the
943 taxpayers. The information must also be posted on the taxing
944 authority's website. During the hearing, the governing body of
945 the taxing authority shall amend the adopted tentative budget as
946 it sees fit, adopt a final budget, and adopt a resolution or
947 ordinance stating the millage rate to be levied. The resolution
948 or ordinance shall state the percent, if any, by which the
949 millage rate to be levied exceeds the rolled-back rate computed
950 pursuant to subsection (1), which shall be characterized as the

951 percentage increase in property taxes adopted by the governing
952 body. The adoption of the budget and the millage-levy resolution
953 or ordinance shall be by separate votes. For each taxing
954 authority levying millage, the name of the taxing authority, the
955 rolled-back rate, the percentage increase, and the millage rate
956 to be levied shall be publicly announced before ~~prior to~~ the
957 adoption of the millage-levy resolution or ordinance. In no
958 event may the millage rate adopted pursuant to this paragraph
959 exceed the millage rate tentatively adopted pursuant to
960 paragraph (c). If the rate tentatively adopted pursuant to
961 paragraph (c) exceeds the proposed rate provided to the property
962 appraiser pursuant to paragraph (b), or as subsequently adjusted
963 pursuant to subsection (11), each taxpayer within the
964 jurisdiction of the taxing authority shall be sent notice by
965 first-class mail of his or her taxes under the tentatively
966 adopted millage rate and his or her taxes under the previously
967 proposed rate. The notice must be prepared by the property
968 appraiser, at the expense of the taxing authority, and must
969 generally conform to the requirements of s. 200.069. If such
970 additional notice is necessary, its mailing must precede the
971 hearing held pursuant to this paragraph by not less than 10 days
972 and not more than 15 days.
973 (e)1. In the hearings required pursuant to paragraphs (c)
974 and (d), the first substantive issue discussed shall be the
975 percentage increase in millage over the rolled-back rate

976 necessary to fund the budget, if any, and the specific purposes
977 for which ad valorem tax revenues are being increased. During
978 such discussion, the governing body shall hear comments
979 regarding the proposed increase and explain the reasons for the
980 proposed increase over the rolled-back rate. The general public
981 shall be allowed to speak and to ask questions before ~~prior to~~
982 adoption of any measures by the governing body. The governing
983 body shall adopt its tentative or final millage rate before
984 ~~prior to~~ adopting its tentative or final budget.
985 2. These hearings shall be held after 5 p.m. if scheduled
986 on a day other than Saturday. No hearing shall be held on a
987 Sunday. The county commission shall not schedule its hearings on
988 days scheduled for hearings by the school board. The hearing
989 dates scheduled by the county commission and school board shall
990 not be utilized by any other taxing authority within the county
991 for its public hearings. However, in counties for which a state
992 of emergency was declared by executive order or proclamation of
993 the Governor pursuant to chapter 252 and the rescheduling of
994 hearings on the same day is unavoidable, the county commission
995 and school board must conduct their hearings at different times,
996 and other taxing authorities must schedule their hearings so as
997 not to conflict with the times of the county commission and
998 school board hearings. A multicounty taxing authority shall make
999 every reasonable effort to avoid scheduling hearings on days
1000 utilized by the counties or school districts within its

1001 jurisdiction. Tax levies and budgets for dependent special
1002 taxing districts shall be adopted at the hearings for the taxing
1003 authority to which such districts are dependent, following such
1004 discussion and adoption of levies and budgets for the superior
1005 taxing authority. A taxing authority may adopt the tax levies
1006 for all of its dependent special taxing districts, and may adopt
1007 the budgets for all of its dependent special taxing districts,
1008 by a single unanimous vote. However, if a member of the general
1009 public requests that the tax levy or budget of a dependent
1010 special taxing district be separately discussed and separately
1011 adopted, the taxing authority shall discuss and adopt that tax
1012 levy or budget separately. If, due to circumstances beyond the
1013 control of the taxing authority, including a state of emergency
1014 declared by executive order or proclamation of the Governor
1015 pursuant to chapter 252, the hearing provided for in paragraph
1016 (c) or paragraph (d) is recessed or postponed, the taxing
1017 authority shall publish a notice in a newspaper of general paid
1018 circulation in the county. The notice shall state the time and
1019 place for the continuation of the hearing and shall be published
1020 at least 2 days but not more than 5 days before ~~prior to~~ the
1021 date the hearing will be continued. In the event of postponement
1022 or recess due to a declared state of emergency, all subsequent
1023 dates in this section shall be extended by the number of days of
1024 the postponement or recess. Notice of the postponement or recess
1025 must be in writing by the affected taxing authority to the tax

1026 collector, the property appraiser, and the Department of Revenue
1027 within 3 calendar days after the postponement or recess. In the
1028 event of such extension, the affected taxing authority must work
1029 with the county tax collector and property appraiser to ensure
1030 timely assessment and collection of taxes.
1031 (f)1. Notwithstanding any provisions of paragraph (c) to
1032 the contrary, each school district shall advertise its intent to
1033 adopt a tentative budget in a newspaper of general circulation
1034 pursuant to subsection (3) within 29 days after ~~of~~ certification
1035 of value pursuant to subsection (1). Not less than 2 days or
1036 more than 5 days thereafter, the district shall hold a public
1037 hearing on the tentative budget pursuant to the applicable
1038 provisions of paragraph (c). In the event of postponement or
1039 recess due to a declared state of emergency, the school district
1040 may postpone or recess the hearing for up to 7 days and shall
1041 post a prominent notice at the place of the original hearing
1042 showing the date, time, and place where the hearing will be
1043 reconvened. The posted notice shall measure not less than 8.5 by
1044 11 inches. The school district shall make every reasonable
1045 effort to provide reasonable notification of the continued
1046 hearing to the taxpayers. The information must also be posted on
1047 the school district's website.
1048 2. Notwithstanding any provisions of paragraph (b) to the
1049 contrary, each school district shall advise the property
1050 appraiser of its recomputed proposed millage rate within 35 days

1051 after ~~of~~ certification of value pursuant to subsection (1). The
1052 recomputed proposed millage rate of the school district shall be
1053 considered its proposed millage rate for the purposes of
1054 paragraph (b).
1055 3. Notwithstanding any provisions of paragraph (d) to the
1056 contrary, each school district shall hold a public hearing to
1057 finalize the budget and adopt a millage rate within 80 days
1058 after ~~of~~ certification of value pursuant to subsection (1), but
1059 not earlier than 65 days after certification. The hearing shall
1060 be held in accordance with the applicable provisions of
1061 paragraph (d), except that a newspaper advertisement need not
1062 precede the hearing.
1063 Section 14. Section 200.069, Florida Statutes, is amended
1064 to read:
1065 200.069 Notice of proposed property taxes and non-ad
1066 valorem assessments.—Pursuant to s. 200.065(2)(b), the property
1067 appraiser, in the name of the taxing authorities and local
1068 governing boards levying non-ad valorem assessments within his
1069 or her jurisdiction and at the expense of the county, shall
1070 prepare and deliver by first-class mail to each taxpayer to be
1071 listed on the current year's assessment roll a notice of
1072 proposed property taxes, which notice shall contain the elements
1073 and use the format provided in the following form.
1074 Notwithstanding the provisions of s. 195.022, no county officer
1075 shall use a form other than that provided herein. The Department

1076 of Revenue may adjust the spacing and placement on the form of
1077 the elements listed in this section as it considers necessary
1078 based on changes in conditions necessitated by various taxing
1079 authorities. If the elements are in the order listed, the
1080 placement of the listed columns may be varied at the discretion
1081 and expense of the property appraiser, and the property
1082 appraiser may use printing technology and devices to complete
1083 the form, the spacing, and the placement of the information in
1084 the columns. In addition, the property appraiser may only
1085 include in the mailing of the notice of ad valorem taxes and
1086 non-ad valorem assessments additional statements explaining any
1087 item on the notice and any other information relevant to
1088 property owners. A county officer may use a form other than that
1089 provided by the department for purposes of this part, but only
1090 if his or her office pays the related expenses and he or she
1091 obtains prior written permission from the executive director of
1092 the department; however, a county officer may not use a form the
1093 substantive content of which is at variance with the form
1094 prescribed by the department. The county officer may continue to
1095 use such an approved form until the law that specifies the form
1096 is amended or repealed or until the officer receives written
1097 disapproval from the executive director.
1098 (1) The first page of the notice shall read:
1099 NOTICE OF PROPOSED PROPERTY TAXES
1100 DO NOT PAY—THIS IS NOT A BILL

1101 The taxing authorities which levy property taxes against
1102 your property will soon hold PUBLIC HEARINGS to adopt budgets
1103 and tax rates for the next year.
1104 The purpose of these PUBLIC HEARINGS is to receive opinions
1105 from the general public and to answer questions on the proposed
1106 tax change and budget PRIOR TO TAKING FINAL ACTION.
1107 Each taxing authority may AMEND OR ALTER its proposals at
1108 the hearing.
1109 (2)(a) The notice shall include a brief legal description
1110 of the property, the name and mailing address of the owner of
1111 record, and the tax information applicable to the specific
1112 parcel in question. The information shall be in columnar form.
1113 There shall be seven column headings which shall read: "Taxing
1114 Authority," "Your Property Taxes Last Year," "Last Year's
1115 Adjusted Tax Rate (Millage)," "Your Taxes This Year IF NO Budget
1116 Change Is Adopted," "Tax Rate This Year IF PROPOSED Budget Is
1117 Adopted (Millage)," "Your Taxes This Year IF PROPOSED Budget
1118 Change Is Adopted," and "A Public Hearing on the Proposed Taxes
1119 and Budget Will Be Held:."
1120 (b) As used in this section, the term "last year's
1121 adjusted tax rate" means the rolled-back rate calculated
1122 pursuant to s. 200.065(1).
1123 (3) There shall be under each column heading an entry for
1124 the county; the school district levy required pursuant to s.
1125 1011.60(6); other operating school levies; the municipality or

1126 municipal service taxing unit or units in which the parcel lies,
1127 if any; the water management district levying pursuant to s.
1128 373.503; the independent special districts in which the parcel
1129 lies, if any; and for all voted levies for debt service
1130 applicable to the parcel, if any.
1131 (4) For each entry listed in subsection (3), there shall
1132 appear on the notice the following:
1133 (a) In the first column, a brief, commonly used name for
1134 the taxing authority or its governing body. The entry in the
1135 first column for the levy required pursuant to s. 1011.60(6)
1136 shall be "By State Law." The entry for other operating school
1137 district levies shall be "By Local Board." Both school levy
1138 entries shall be indented and preceded by the notation "Public
1139 Schools:". For each voted levy for debt service, the entry shall
1140 be "Voter Approved Debt Payments."
1141 (b) In the second column, the gross amount of ad valorem
1142 taxes levied against the parcel in the previous year. If the
1143 parcel did not exist in the previous year, the second column
1144 shall be blank.
1145 (c) In the third column, last year's adjusted tax rate or,
1146 in the case of voted levies for debt service, the tax rate
1147 previously authorized by referendum.
1148 (d) In the fourth column, the gross amount of ad valorem
1149 taxes which will apply to the parcel in the current year if each
1150 taxing authority levies last year's adjusted tax rate or, in the

1151 case of voted levies for debt service, the amount previously
1152 authorized by referendum.
1153 (e) In the fifth column, the tax rate that each taxing
1154 authority must levy against the parcel to fund the proposed
1155 budget or, in the case of voted levies for debt service, the tax
1156 rate previously authorized by referendum.
1157 (f) In the sixth column, the gross amount of ad valorem
1158 taxes that must be levied in the current year if the proposed
1159 budget is adopted.
1160 (g) In the seventh column, the date, the time, and a brief
1161 description of the location of the public hearing required
1162 pursuant to s. 200.065(2)(c).
1163 (5) Following the entries for each taxing authority, a
1164 final entry shall show: in the first column, the words "Total
1165 Property Taxes:" and in the second, fourth, and sixth columns,
1166 the sum of the entries for each of the individual taxing
1167 authorities. The second, fourth, and sixth columns shall,
1168 immediately below said entries, be labeled Column 1, Column 2,
1169 and Column 3, respectively. Below these labels shall appear, in
1170 boldfaced type, the statement: SEE REVERSE SIDE FOR EXPLANATION.
1171 (6)(a) The second page of the notice shall state the
1172 parcel's market value and for each taxing authority that levies
1173 an ad valorem tax against the parcel:
1174 1. The assessed value, value of exemptions, and taxable
1175 value for the previous year and the current year.

1176 2. Each assessment reduction and exemption applicable to
1177 the property, including the value of the assessment reduction or
1178 exemption and tax levies to which they apply.
1179 (b) The reverse side of the second page shall contain
1180 definitions and explanations for the values included on the
1181 front side.
1182 (7) The following statement shall appear after the values
1183 listed on the front of the second page:
1184 If you feel that the market value of your property is
1185 inaccurate or does not reflect fair market value, or if you are
1186 entitled to an exemption or classification that is not reflected
1187 above, contact your county property appraiser at ...(phone
1188 number)... or ...(location)....
1189 If the property appraiser's office is unable to resolve the
1190 matter as to market value, classification, or an exemption, you
1191 may file a petition for adjustment with the Value Adjustment
1192 Board. Petition forms are available from the county property
1193 appraiser and must be filed ON OR BEFORE ...(date)....
1194 (8) The reverse side of the first page of the form shall
1195 read:
1196 EXPLANATION
1197 *COLUMN 1—"YOUR PROPERTY TAXES LAST YEAR"
1198 This column shows the taxes that applied last year to your
1199 property. These amounts were based on budgets adopted last year
1200 and your property's previous taxable value.

1201 *COLUMN 2—"YOUR TAXES IF NO BUDGET CHANGE IS ADOPTED"
1202 This column shows what your taxes will be this year IF EACH
1203 TAXING AUTHORITY DOES NOT CHANGE ITS PROPERTY TAX LEVY. These
1204 amounts are based on last year's budgets and your current
1205 assessment.
1206 *COLUMN 3—"YOUR TAXES IF PROPOSED BUDGET CHANGE IS ADOPTED"
1207 This column shows what your taxes will be this year under the
1208 BUDGET ACTUALLY PROPOSED by each local taxing authority. The
1209 proposal is NOT final and may be amended at the public hearings
1210 shown on the front side of this notice. The difference between
1211 columns 2 and 3 is the tax change proposed by each local taxing
1212 authority and is NOT the result of higher assessments.
1213 *Note: Amounts shown on this form do NOT reflect early payment
1214 discounts you may have received or may be eligible to receive.
1215 (Discounts are a maximum of 4 percent of the amounts shown on
1216 this form.)
1217 (9) The bottom portion of the notice shall further read in
1218 bold, conspicuous print:
1219 "Your final tax bill may contain non-ad valorem assessments
1220 which may not be reflected on this notice such as assessments
1221 for roads, fire, garbage, lighting, drainage, water, sewer, or
1222 other governmental services and facilities which may be levied
1223 by your county, city, or any special district."
1224 (10)(a) If requested by the local governing board levying
1225 non-ad valorem assessments and agreed to by the property

1226 appraiser, the notice specified in this section may contain a
1227 notice of proposed or adopted non-ad valorem assessments. If so
1228 agreed, the notice shall be titled:
1229 NOTICE OF PROPOSED PROPERTY TAXES
1230 AND PROPOSED OR ADOPTED
1231 NON-AD VALOREM ASSESSMENTS
1232 DO NOT PAY—THIS IS NOT A BILL
1233 There must be a clear partition between the notice of proposed
1234 property taxes and the notice of proposed or adopted non-ad
1235 valorem assessments. The partition must be a bold, horizontal
1236 line approximately 1/8-inch thick. By rule, the department
1237 shall provide a format for the form of the notice of proposed or
1238 adopted non-ad valorem assessments which meets the following
1239 minimum requirements:
1240 1. There must be subheading for columns listing the
1241 levying local governing board, with corresponding assessment
1242 rates expressed in dollars and cents per unit of assessment, and
1243 the associated assessment amount.
1244 2. The purpose of each assessment must also be listed in
1245 the column listing the levying local governing board if the
1246 purpose is not clearly indicated by the name of the board.
1247 3. Each non-ad valorem assessment for each levying local
1248 governing board must be listed separately.
1249 4. If a county has too many municipal service benefit
1250 units or assessments to be listed separately, it shall combine

1251 them by function.
1252 5. A brief statement outlining the responsibility of the
1253 tax collector and each levying local governing board as to any
1254 non-ad valorem assessment must be provided on the form,
1255 accompanied by directions as to which office to contact for
1256 particular questions or problems.
1257 (b) If the notice includes all adopted non-ad valorem
1258 assessments, the provisions contained in subsection (9) shall
1259 not be placed on the notice.
1260 Section 15. Effective January 1, 2021, paragraphs (a) and
1261 (b) of subsection (1) of section 202.12, Florida Statutes, are
1262 amended to read:
1263 202.12 Sales of communications services.—The Legislature
1264 finds that every person who engages in the business of selling
1265 communications services at retail in this state is exercising a
1266 taxable privilege. It is the intent of the Legislature that the
1267 tax imposed by chapter 203 be administered as provided in this
1268 chapter.
1269 (1) For the exercise of such privilege, a tax is levied on
1270 each taxable transaction and is due and payable as follows:
1271 (a) Except as otherwise provided in this subsection, at
1272 the rate of 4.42 ~~4.92~~ percent applied to the sales price of the
1273 communications service that:
1274 1. Originates and terminates in this state, or
1275 2. Originates or terminates in this state and is charged

1276 to a service address in this state,
1277
1278 when sold at retail, computed on each taxable sale for the
1279 purpose of remitting the tax due. The gross receipts tax imposed
1280 by chapter 203 shall be collected on the same taxable
1281 transactions and remitted with the tax imposed by this
1282 paragraph. If no tax is imposed by this paragraph due to the
1283 exemption provided under s. 202.125(1), the tax imposed by
1284 chapter 203 shall nevertheless be collected and remitted in the
1285 manner and at the time prescribed for tax collections and
1286 remittances under this chapter.
1287 (b) At the rate of 8.57 ~~9.07~~ percent applied to the retail
1288 sales price of any direct-to-home satellite service received in
1289 this state. The proceeds of the tax imposed under this paragraph
1290 shall be accounted for and distributed in accordance with s.
1291 202.18(2). The gross receipts tax imposed by chapter 203 shall
1292 be collected on the same taxable transactions and remitted with
1293 the tax imposed by this paragraph.
1294 Section 16. Effective January 1, 2021, section 202.12001,
1295 Florida Statutes, is amended to read:
1296 202.12001 Combined rate for tax collected pursuant to ss.
1297 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.
1298 2010-149, Laws of Florida, the dealer of communication services
1299 may collect a combined rate of 4.57 ~~5.07~~ percent, composed of
1300 the 4.42 ~~4.92~~ percent and 0.15 percent rates required by ss.

1301 202.12(1)(a) and 203.01(1)(b)3., respectively, if the provider
1302 properly reflects the tax collected with respect to the two
1303 provisions as required in the return to the department.
1304 Section 17. Effective January 1, 2021, section 203.001,
1305 Florida Statutes, is amended to read:
1306 203.001 Combined rate for tax collected pursuant to ss.
1307 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.
1308 2010-149, Laws of Florida, the dealer of communication services
1309 may collect a combined rate of 4.57 ~~5.07~~ percent, composed of
1310 the 4.42 ~~4.92~~ percent and 0.15 percent rates required by ss.
1311 202.12(1)(a) and 203.01(1)(b)3., respectively, if the provider
1312 properly reflects the tax collected with respect to the two
1313 provisions as required in the return to the Department of
1314 Revenue.
1315 Section 18. Subsection (1) of section 206.05, Florida
1316 Statutes, is amended to read:
1317 206.05 Bond required of licensed terminal supplier,
1318 importer, exporter, or wholesaler.—
1319 (1) Each terminal supplier, importer, exporter, or
1320 wholesaler, except a municipality, county, school board, state
1321 agency, federal agency, or special district which is licensed
1322 under this part, shall file with the department a bond in a
1323 penal sum of not more than $300,000 ~~$100,000~~, such sum to be
1324 approximately 3 times the combined average monthly tax levied
1325 under this part and local option tax on motor fuel paid or due

1326 during the preceding 12 calendar months under the laws of this
1327 state. An exporter shall file a bond in an amount equal to 3
1328 times the average monthly tax due on gallons acquired for
1329 export. The bond shall be in such form as may be approved by the
1330 department, executed by a surety company duly licensed to do
1331 business under the laws of the state as surety thereon, and
1332 conditioned upon the prompt filing of true reports and the
1333 payment to the department of any and all fuel taxes levied under
1334 this chapter including local option taxes which are now or which
1335 hereafter may be levied or imposed, together with any and all
1336 penalties and interest thereon, and generally upon faithful
1337 compliance with the provisions of the fuel tax and local option
1338 tax laws of the state. The licensee shall be the principal
1339 obligor, and the state shall be the obligee. An assigned time
1340 deposit or irrevocable letter of credit may be accepted in lieu
1341 of a surety bond.
1342 Section 19. Subsection (6) of section 206.8741, Florida
1343 Statutes, is amended to read:
1344 206.8741 Dyeing and marking; notice requirements.—
1345 (6) Any person who fails to provide or post the required
1346 notice with respect to any dyed diesel fuel is subject to a
1347 penalty of $2500 for each month such failure occurs ~~the penalty~~
1348 ~~imposed by s. 206.872(11)~~.
1349 Section 20. Subsection (1) section 206.90, Florida
1350 Statutes, is amended to read:

1351 206.90 Bond required of terminal suppliers, importers, and
1352 wholesalers.—
1353 (1) Every terminal supplier, importer, or wholesaler,
1354 except a municipality, county, state agency, federal agency,
1355 school board, or special district, shall file with the
1356 department a bond or bonds in the penal sum of not more than
1357 $300,000 ~~$100,000~~. The sum of such bond shall be approximately 3
1358 times the average monthly diesel fuels tax and local option tax
1359 on diesel fuels paid or due during the preceding 12 calendar
1360 months, with a surety approved by the department. The licensee
1361 shall be the principal obligor and the state shall be the
1362 obligee, conditioned upon the faithful compliance with the
1363 provisions of this chapter, including the local option tax laws.
1364 If the sum of 3 times a licensee's average monthly tax is less
1365 than $50, no bond shall be required.
1366 Section 21. Section 206.9826, Florida Statutes, is amended
1367 to read:
1368 206.9826 Refund for certain air carriers.—An air carrier
1369 conducting scheduled operations or all-cargo operations that are
1370 authorized under 14 C.F.R. part 121, 14 C.F.R. part 129, or 14
1371 C.F.R. part 135, is entitled to receive a refund of 2.38 ~~1.42~~
1372 cents per gallon of the taxes imposed by this part on aviation
1373 fuel purchased by such air carrier. The refund provided under
1374 this section plus the refund provided under s. 206.9855 may not
1375 exceed 4.27 cents per gallon of aviation fuel purchased by an

1376 air carrier.
1377 Section 22. Paragraph (b) of subsection (4) of section
1378 212.0305, Florida Statutes, is amended to read:
1379 212.0305 Convention development taxes; intent;
1380 administration; authorization; use of proceeds.—
1381 (4) AUTHORIZATION TO LEVY; USE OF PROCEEDS; OTHER
1382 REQUIREMENTS.—
1383 (b) Charter county levy for convention development.—
1384 1. Each county, as defined in s. 125.011(1), may impose,
1385 under an ordinance enacted by the governing body of the county,
1386 a levy on the exercise within its boundaries of the taxable
1387 privilege of leasing or letting transient rental accommodations
1388 described in subsection (3) at the rate of 3 percent of the
1389 total consideration charged therefor. The proceeds of this levy
1390 shall be known as the charter county convention development tax.
1391 2. All charter county convention development moneys,
1392 including any interest accrued thereon, received by a county
1393 imposing the levy shall be used for the following purposes only
1394 ~~as follows~~:
1395 a. Revenues may be used to complete any project underway
1396 as of the effective date of this act, or to perform any contract
1397 in existence on the effective date of this act, funded under
1398 this paragraph as this paragraph existed before the effective
1399 date of this act. Revenues may not be used to renew or extend
1400 such projects or contracts. Bonds or other debt outstanding as

1401 of the effective date of this act may be refinanced, but the
1402 duration of such debt pledging the convention development tax
1403 may not be extended and the outstanding principal may not be
1404 increased, except to account for the costs of issuance.
1405 b. Revenues not needed for projects, contracts, or debt
1406 obligations pursuant to sub-subparagraph a. shall be distributed
1407 and used as follows:
1408 (I) One-half of the proceeds shall be distributed monthly
1409 to the governing boards of municipalities within the county.
1410 Distributions to each municipality shall be in proportion to the
1411 amount collected in the prior month within each municipality as
1412 a share of the total collected in the prior month in all
1413 municipalities in the county. These distributions may be used by
1414 the receiving jurisdiction to:
1415 (A) Acquire, construct, extend, enlarge, remodel, repair,
1416 improve, operate, or maintain one or more of the following: a
1417 convention center, exhibition hall, coliseum, auditorium, or
1418 related building or parking facility in the jurisdiction; or to
1419 (B) Promote and advertise tourism, to fund convention
1420 bureaus, tourist bureaus, tourist information centers, and news
1421 bureaus. Municipalities receiving revenue under this sub-
1422 subparagraph may enter into an interlocal agreement to use such
1423 revenue to receive services provided by the entity receiving
1424 funds under sub-sub-subparagraph 212.0305(4)(b)2.b.III.
1425 (II) One-half of the proceeds shall be distributed monthly

1426 to the governing body of the county to:
1427 (A) Acquire, construct, extend, enlarge, remodel, repair,
1428 improve, plan for, operate, manage, or maintain one or more of
1429 the following: a convention center, exhibition hall, coliseum,
1430 auditorium, or related building or parking facility in the
1431 county; or
1432 (B) Be allocated by the county to a countywide convention
1433 and visitors bureau which , by interlocal agreement and contract
1434 with the county, has the primary responsibility for promoting
1435 the county and its constituent cities as a destination site for
1436 conventions, trade shows, and pleasure travel, to be used for
1437 purposes provided in s. 125.0104(5)(a)2. or 3., 1992 Supplement
1438 to the Florida Statutes 1991. If the county is not or is no
1439 longer a party to such an interlocal agreement and contract with
1440 a countywide convention and visitors bureau, the county shall
1441 allocate the proceeds of such tax for the purposes described in
1442 s. 125.0104(5)(a)2. or 3., 1992 Supplement to the Florida
1443 Statutes 1991.
1444 ~~a. Two thirds of the proceeds shall be used to extend,~~
1445 ~~enlarge, and improve the largest existing publicly owned~~
1446 ~~convention center in the county.~~
1447 ~~b. One-third of the proceeds shall be used to construct a~~
1448 ~~new multipurpose convention/coliseum/exhibition center/stadium~~
1449 ~~or the maximum components thereof as funds permit in the most~~
1450 ~~populous municipality in the county.~~

1451 ~~c. After the completion of any project under sub-~~
1452 ~~subparagraph a., the tax revenues and interest accrued under~~
1453 ~~sub-subparagraph a. may be used to acquire, construct, extend,~~
1454 ~~enlarge, remodel, repair, improve, plan for, operate, manage, or~~
1455 ~~maintain one or more convention centers, stadiums, exhibition~~
1456 ~~halls, arenas, coliseums, auditoriums, or golf courses, and may~~
1457 ~~be used to acquire and construct an intercity light rail~~
1458 ~~transportation system as described in the Light Rail Transit~~
1459 ~~System Status Report to the Legislature dated April 1988, which~~
1460 ~~shall provide a means to transport persons to and from the~~
1461 ~~largest existing publicly owned convention center in the county~~
1462 ~~and the hotels north of the convention center and to and from~~
1463 ~~the downtown area of the most populous municipality in the~~
1464 ~~county as determined by the county.~~
1465 ~~d. After completion of any project under sub-subparagraph~~
1466 ~~b., the tax revenues and interest accrued under sub-subparagraph~~
1467 ~~b. may be used, as determined by the county, to operate an~~
1468 ~~authority created pursuant to subparagraph 4. or to acquire,~~
1469 ~~construct, extend, enlarge, remodel, repair, improve, operate,~~
1470 ~~or maintain one or more convention centers, stadiums, exhibition~~
1471 ~~halls, arenas, coliseums, auditoriums, golf courses, or related~~
1472 ~~buildings and parking facilities in the most populous~~
1473 ~~municipality in the county.~~
1474 ~~e. For the purposes of completion of any project pursuant~~
1475 ~~to this paragraph, tax revenues and interest accrued may be~~

1476 ~~used:~~
1477 ~~(I) As collateral, pledged, or hypothecated for projects~~
1478 ~~authorized by this paragraph, including bonds issued in~~
1479 ~~connection therewith; or~~
1480 ~~(II) As a pledge or capital contribution in conjunction~~
1481 ~~with a partnership, joint venture, or other business arrangement~~
1482 ~~between a municipality and one or more business entities for~~
1483 ~~projects authorized by this paragraph.~~
1484 3. The governing body of each municipality in which a
1485 municipal tourist tax is levied may adopt a resolution
1486 prohibiting imposition of the charter county convention
1487 development levy within such municipality. If the governing body
1488 adopts such a resolution, the convention development levy shall
1489 be imposed by the county in all other areas of the county except
1490 such municipality. No funds collected pursuant to this paragraph
1491 may be expended in a municipality which has adopted such a
1492 resolution.
1493 ~~4.a. Before the county enacts an ordinance imposing the~~
1494 ~~levy, the county shall notify the governing body of each~~
1495 ~~municipality in which projects are to be developed pursuant to~~
1496 ~~sub-subparagraph 2.a., sub-subparagraph 2.b., sub-subparagraph~~
1497 ~~2.c., or sub-subparagraph 2.d. As a condition precedent to~~
1498 ~~receiving funding, the governing bodies of such municipalities~~
1499 ~~shall designate or appoint an authority that shall have the sole~~
1500 ~~power to:~~

1501 ~~(I) Approve the concept, location, program, and design of~~
1502 ~~the facilities or improvements to be built in accordance with~~
1503 ~~this paragraph and to administer and disburse such proceeds and~~
1504 ~~any other related source of revenue.~~
1505 ~~(II) Appoint and dismiss the authority's executive~~
1506 ~~director, general counsel, and any other consultants retained by~~
1507 ~~the authority. The governing body shall have the right to~~
1508 ~~approve or disapprove the initial appointment of the authority's~~
1509 ~~executive director and general counsel.~~
1510 ~~b. The members of each such authority shall serve for a~~
1511 ~~term of not less than 1 year and shall be appointed by the~~
1512 ~~governing body of such municipality. The annual budget of such~~
1513 ~~authority shall be subject to approval of the governing body of~~
1514 ~~the municipality. If the governing body does not approve the~~
1515 ~~budget, the authority shall use as the authority's budget the~~
1516 ~~previous fiscal year budget.~~
1517 ~~c. The authority, by resolution to be adopted from time to~~
1518 ~~time, may invest and reinvest the proceeds from the convention~~
1519 ~~development tax and any other revenues generated by the~~
1520 ~~authority in the same manner that the municipality in which the~~
1521 ~~authority is located may invest surplus funds.~~
1522 4.~~5.~~ The charter county convention development levy shall
1523 be in addition to any other levy imposed pursuant to this
1524 section.
1525 5.~~6.~~ A certified copy of the ordinance imposing the levy

1526 shall be furnished by the county to the department within 10
1527 days after approval of such ordinance. The effective date of
1528 imposition of the levy shall be the first day of any month at
1529 least 60 days after enactment of the ordinance.
1530 6.~~7.~~ Revenues collected pursuant to this paragraph shall
1531 be deposited in a convention development trust fund, which shall
1532 be established by the county as a condition precedent to receipt
1533 of such funds.
1534 Section 23. Paragraph (a) of subsection (1) and paragraph
1535 (a) of subsection (3) of section 212.0306, Florida Statutes, are
1536 amended to read:
1537 212.0306 Local option food and beverage tax; procedure for
1538 levying; authorized uses; administration.—
1539 (1) Any county, as defined in s. 125.011(1), may impose
1540 the following additional taxes, by ordinance adopted by a
1541 majority vote of the governing body:
1542 (a) At the rate of 2 percent on the sale of food,
1543 beverages, or alcoholic beverages in hotels and motels only.
1544 Beginning July 1, 2020, this tax shall be known as the "Local
1545 Option Coastal Recovery and Resiliency Tax."
1546 (3)(a) The proceeds of the tax authorized by paragraph
1547 (1)(a) shall be allocated by the county to a countywide
1548 convention and visitors bureau which, by interlocal agreement
1549 and contract with the county in effect on the effective date of
1550 this act, has been given the primary responsibility for

1551 promoting the county and its constituent cities as a destination
1552 site for conventions, trade shows, and pleasure travel, to be
1553 used for purposes provided in s. 125.0104(5)(a)2. or 3., 1992
1554 Supplement to the Florida Statutes 1991. The interlocal
1555 agreement and contract may not be renewed or extended. At the
1556 expiration or completion of the interlocal agreement and
1557 contract in effect on the effective date of this act, the
1558 proceeds shall be distributed to the governing board of the
1559 county and used for one or more of the following, as decided by
1560 a majority of the governing board of the county:
1561 1. Water quality improvement projects, including, but not
1562 limited to:
1563 a. Flood mitigation.
1564 b. Seagrass or seaweed removal.
1565 c. Algae control, cleanup, or prevention measures.
1566 d. Biscayne Bay and waterway network restoration measures.
1567 e. Septic-to-sewer conversion projects.
1568 2. Erosion control.
1569 3. Mangrove protection.
1570 4. Removal of invasive plant and animal species.
1571 5. Beach renourishment.
1572 6. Purchase of land for conservation purposes.
1573 7. Coral reef protection ~~If the county is not or is no~~
1574 ~~longer a party to such an interlocal agreement and contract with~~
1575 ~~a countywide convention and visitors bureau, the county shall~~

1576 ~~allocate the proceeds of such tax for the purposes described in~~
1577 ~~s. 125.0104(5)(a)2. or 3., 1992 Supplement to the Florida~~
1578 ~~Statutes 1991~~.
1579 Section 24. Effective January 1, 2021, paragraphs (c) and
1580 (d) of subsection (1) of section 212.031, Florida Statutes, are
1581 amended to read:
1582 212.031 Tax on rental or license fee for use of real
1583 property.—
1584 (1)
1585 (c) For the exercise of such privilege, a tax is levied at
1586 the rate of 5.4 ~~5.5~~ percent of and on the total rent or license
1587 fee charged for such real property by the person charging or
1588 collecting the rental or license fee. The total rent or license
1589 fee charged for such real property shall include payments for
1590 the granting of a privilege to use or occupy real property for
1591 any purpose and shall include base rent, percentage rents, or
1592 similar charges. Such charges shall be included in the total
1593 rent or license fee subject to tax under this section whether or
1594 not they can be attributed to the ability of the lessor's or
1595 licensor's property as used or operated to attract customers.
1596 Payments for intrinsically valuable personal property such as
1597 franchises, trademarks, service marks, logos, or patents are not
1598 subject to tax under this section. In the case of a contractual
1599 arrangement that provides for both payments taxable as total
1600 rent or license fee and payments not subject to tax, the tax

1601 shall be based on a reasonable allocation of such payments and
1602 shall not apply to that portion which is for the nontaxable
1603 payments.
1604 (d) If the rental or license fee of any such real property
1605 is paid by way of property, goods, wares, merchandise, services,
1606 or other thing of value, the tax shall be at the rate of 5.4 ~~5.5~~
1607 percent of the value of the property, goods, wares, merchandise,
1608 services, or other thing of value.
1609 Section 25. Paragraph (a) of subsection (1) of section
1610 212.05, Florida Statutes, is amended to read:
1611 212.05 Sales, storage, use tax.—It is hereby declared to
1612 be the legislative intent that every person is exercising a
1613 taxable privilege who engages in the business of selling
1614 tangible personal property at retail in this state, including
1615 the business of making mail order sales, or who rents or
1616 furnishes any of the things or services taxable under this
1617 chapter, or who stores for use or consumption in this state any
1618 item or article of tangible personal property as defined herein
1619 and who leases or rents such property within the state.
1620 (1) For the exercise of such privilege, a tax is levied on
1621 each taxable transaction or incident, which tax is due and
1622 payable as follows:
1623 (a)1.a. At the rate of 6 percent of the sales price of
1624 each item or article of tangible personal property when sold at
1625 retail in this state, computed on each taxable sale for the

1626 purpose of remitting the amount of tax due the state, and
1627 including each and every retail sale.
1628 b. Each occasional or isolated sale of an aircraft, boat,
1629 mobile home, or motor vehicle of a class or type which is
1630 required to be registered, licensed, titled, or documented in
1631 this state or by the United States Government shall be subject
1632 to tax at the rate provided in this paragraph. The department
1633 shall by rule adopt any nationally recognized publication for
1634 valuation of used motor vehicles as the reference price list for
1635 any used motor vehicle which is required to be licensed pursuant
1636 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
1637 party to an occasional or isolated sale of such a vehicle
1638 reports to the tax collector a sales price which is less than 80
1639 percent of the average loan price for the specified model and
1640 year of such vehicle as listed in the most recent reference
1641 price list, the tax levied under this paragraph shall be
1642 computed by the department on such average loan price unless the
1643 parties to the sale have provided to the tax collector an
1644 affidavit signed by each party, or other substantial proof,
1645 stating the actual sales price. Any party to such sale who
1646 reports a sales price less than the actual sales price is guilty
1647 of a misdemeanor of the first degree, punishable as provided in
1648 s. 775.082 or s. 775.083. The department shall collect or
1649 attempt to collect from such party any delinquent sales taxes.
1650 In addition, such party shall pay any tax due and any penalty

1651 and interest assessed plus a penalty equal to twice the amount
1652 of the additional tax owed. Notwithstanding any other provision
1653 of law, the Department of Revenue may waive or compromise any
1654 penalty imposed pursuant to this subparagraph.
1655 2. This paragraph does not apply to the sale of a boat or
1656 aircraft by or through a registered dealer under this chapter to
1657 a purchaser who, at the time of taking delivery, is a
1658 nonresident of this state, does not make his or her permanent
1659 place of abode in this state, and is not engaged in carrying on
1660 in this state any employment, trade, business, or profession in
1661 which the boat or aircraft will be used in this state, or is a
1662 corporation none of the officers or directors of which is a
1663 resident of, or makes his or her permanent place of abode in,
1664 this state, or is a noncorporate entity that has no individual
1665 vested with authority to participate in the management,
1666 direction, or control of the entity's affairs who is a resident
1667 of, or makes his or her permanent abode in, this state. For
1668 purposes of this exemption, either a registered dealer acting on
1669 his or her own behalf as seller, a registered dealer acting as
1670 broker on behalf of a seller, or a registered dealer acting as
1671 broker on behalf of the purchaser may be deemed to be the
1672 selling dealer. This exemption shall not be allowed unless:
1673 a. The purchaser removes a qualifying boat, as described
1674 in sub-subparagraph f., from the state within 90 days after the
1675 date of purchase or extension, or the purchaser removes a

1676 nonqualifying boat or an aircraft from this state within 10 days
1677 after the date of purchase or, when the boat or aircraft is
1678 repaired or altered, within 20 days after completion of the
1679 repairs or alterations; or if the aircraft will be registered in
1680 a foreign jurisdiction and:
1681 (I) Application for the aircraft's registration is
1682 properly filed with a civil airworthiness authority of a foreign
1683 jurisdiction within 10 days after the date of purchase;
1684 (II) The purchaser removes the aircraft from the state to
1685 a foreign jurisdiction within 10 days after the date the
1686 aircraft is registered by the applicable foreign airworthiness
1687 authority; and
1688 (III) The aircraft is operated in the state solely to
1689 remove it from the state to a foreign jurisdiction.
1690
1691 For purposes of this sub-subparagraph, the term "foreign
1692 jurisdiction" means any jurisdiction outside of the United
1693 States or any of its territories;
1694 b. The purchaser, within 90 ~~30~~ days from the date of
1695 departure, provides the department with written proof that the
1696 purchaser licensed, registered, titled, or documented the boat
1697 or aircraft outside the state. If such written proof is
1698 unavailable, within 90 ~~30~~ days the purchaser shall provide proof
1699 that the purchaser applied for such license, title,
1700 registration, or documentation. The purchaser shall forward to

1701 the department proof of title, license, registration, or
1702 documentation upon receipt;
1703 c. The purchaser, within 30 ~~10~~ days after ~~of~~ removing the
1704 boat or aircraft from Florida, furnishes the department with
1705 proof of removal in the form of receipts for fuel, dockage,
1706 slippage, tie-down, or hangaring from outside of Florida. The
1707 information so provided must clearly and specifically identify
1708 the boat or aircraft;
1709 d. The selling dealer, within 30 ~~5~~ days after ~~of~~ the date
1710 of sale, provides to the department a copy of the sales invoice,
1711 closing statement, bills of sale, and the original affidavit
1712 signed by the purchaser attesting that he or she has read the
1713 provisions of this section;
1714 e. The seller makes a copy of the affidavit a part of his
1715 or her record for as long as required by s. 213.35; and
1716 f. Unless the nonresident purchaser of a boat of 5 net
1717 tons of admeasurement or larger intends to remove the boat from
1718 this state within 10 days after the date of purchase or when the
1719 boat is repaired or altered, within 20 days after completion of
1720 the repairs or alterations, the nonresident purchaser applies to
1721 the selling dealer for a decal which authorizes 90 days after
1722 the date of purchase for removal of the boat. The nonresident
1723 purchaser of a qualifying boat may apply to the selling dealer
1724 within 60 days after the date of purchase for an extension decal
1725 that authorizes the boat to remain in this state for an

1726 additional 90 days, but not more than a total of 180 days,
1727 before the nonresident purchaser is required to pay the tax
1728 imposed by this chapter. The department is authorized to issue
1729 decals in advance to dealers. The number of decals issued in
1730 advance to a dealer shall be consistent with the volume of the
1731 dealer's past sales of boats which qualify under this sub-
1732 subparagraph. The selling dealer or his or her agent shall mark
1733 and affix the decals to qualifying boats in the manner
1734 prescribed by the department, before delivery of the boat.
1735 (I) The department is hereby authorized to charge dealers
1736 a fee sufficient to recover the costs of decals issued, except
1737 the extension decal shall cost $425.
1738 (II) The proceeds from the sale of decals will be
1739 deposited into the administrative trust fund.
1740 (III) Decals shall display information to identify the
1741 boat as a qualifying boat under this sub-subparagraph,
1742 including, but not limited to, the decal's date of expiration.
1743 (IV) The department is authorized to require dealers who
1744 purchase decals to file reports with the department and may
1745 prescribe all necessary records by rule. All such records are
1746 subject to inspection by the department.
1747 (V) Any dealer or his or her agent who issues a decal
1748 falsely, fails to affix a decal, mismarks the expiration date of
1749 a decal, or fails to properly account for decals will be
1750 considered prima facie to have committed a fraudulent act to

1751 evade the tax and will be liable for payment of the tax plus a
1752 mandatory penalty of 200 percent of the tax, and shall be liable
1753 for fine and punishment as provided by law for a conviction of a
1754 misdemeanor of the first degree, as provided in s. 775.082 or s.
1755 775.083.
1756 (VI) Any nonresident purchaser of a boat who removes a
1757 decal before permanently removing the boat from the state, or
1758 defaces, changes, modifies, or alters a decal in a manner
1759 affecting its expiration date before its expiration, or who
1760 causes or allows the same to be done by another, will be
1761 considered prima facie to have committed a fraudulent act to
1762 evade the tax and will be liable for payment of the tax plus a
1763 mandatory penalty of 200 percent of the tax, and shall be liable
1764 for fine and punishment as provided by law for a conviction of a
1765 misdemeanor of the first degree, as provided in s. 775.082 or s.
1766 775.083.
1767 (VII) The department is authorized to adopt rules
1768 necessary to administer and enforce this subparagraph and to
1769 publish the necessary forms and instructions.
1770 (VIII) The department is hereby authorized to adopt
1771 emergency rules pursuant to s. 120.54(4) to administer and
1772 enforce the provisions of this subparagraph.
1773
1774 If the purchaser fails to remove the qualifying boat from this
1775 state within the maximum 180 days after purchase or a

1776 nonqualifying boat or an aircraft from this state within 10 days
1777 after purchase or, when the boat or aircraft is repaired or
1778 altered, within 20 days after completion of such repairs or
1779 alterations, or permits the boat or aircraft to return to this
1780 state within 6 months from the date of departure, except as
1781 provided in s. 212.08(7)(fff), or if the purchaser fails to
1782 furnish the department with any of the documentation required by
1783 this subparagraph within the prescribed time period, the
1784 purchaser shall be liable for use tax on the cost price of the
1785 boat or aircraft and, in addition thereto, payment of a penalty
1786 to the Department of Revenue equal to the tax payable. This
1787 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
1788 The maximum 180-day period following the sale of a qualifying
1789 boat tax-exempt to a nonresident may not be tolled for any
1790 reason.
1791 Section 26. Subsection (6) of section 212.055, Florida
1792 Statutes, is amended, and paragraph (f) is added to subsection
1793 (1) of that section, to read:
1794 212.055 Discretionary sales surtaxes; legislative intent;
1795 authorization and use of proceeds.—It is the legislative intent
1796 that any authorization for imposition of a discretionary sales
1797 surtax shall be published in the Florida Statutes as a
1798 subsection of this section, irrespective of the duration of the
1799 levy. Each enactment shall specify the types of counties
1800 authorized to levy; the rate or rates which may be imposed; the

1801 maximum length of time the surtax may be imposed, if any; the
1802 procedure which must be followed to secure voter approval, if
1803 required; the purpose for which the proceeds may be expended;
1804 and such other requirements as the Legislature may provide.
1805 Taxable transactions and administrative procedures shall be as
1806 provided in s. 212.054.
1807 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM
1808 SURTAX.—
1809 (f) Any surtax levied under this subsection in each
1810 county, as defined in s. 125.011(1), expires on December 31,
1811 2049. Any new levy of the surtax authorized by such a county
1812 under this subsection on or after January 1, 2050, must be
1813 approved by a majority vote of the electorate at a general
1814 election held within 2 years before the effective date of the
1815 new levy.
1816 (g) A discretionary sales surtax levied under this
1817 subsection pursuant to a referendum held on or after July 1,
1818 2020, may not be levied for more than 20 years, unless reenacted
1819 by ordinance subject to approval by a majority of the electors
1820 of the county voting in a subsequent referendum.
1821 (6) SCHOOL CAPITAL OUTLAY SURTAX.—
1822 (a) The school board in each county may levy, pursuant to
1823 resolution conditioned to take effect only upon approval by a
1824 majority vote of the electors of the county voting in a
1825 referendum, a discretionary sales surtax at a rate that may not

1826 exceed 0.5 percent.
1827 (b) The resolution must ~~shall~~ include a statement that
1828 provides a brief and general description of the school capital
1829 outlay projects to be funded by the surtax. The resolution must
1830 include a statement that the revenues collected must be shared
1831 with charter schools based on their proportionate share of the
1832 total school district enrollment. The statement must ~~shall~~
1833 conform to the requirements of s. 101.161 and shall be placed on
1834 the ballot by the governing body of the county. The following
1835 question shall be placed on the ballot:
1836

....FOR THE ....CENTS TAX

1837

....AGAINST THE ....CENTS TAX

1838
1839
1840
1841
1842 (c) The resolution providing for the imposition of the
1843 surtax must ~~shall~~ set forth a plan for use of the surtax
1844 proceeds for fixed capital expenditures or fixed capital costs
1845 associated with the construction, reconstruction, or improvement
1846 of school facilities and campuses which have a useful life
1847 expectancy of 5 or more years, and any land acquisition, land
1848 improvement, design, and engineering costs related thereto.

1849 Additionally, the plan shall include the costs of retrofitting
1850 and providing for technology implementation, including hardware
1851 and software, for the various sites within the school district.
1852 Surtax revenues may be used to service ~~for the purpose of~~
1853 ~~servicing~~ bond indebtedness to finance projects authorized by
1854 this subsection, and any interest accrued thereto may be held in
1855 trust to finance such projects. Neither the proceeds of the
1856 surtax nor any interest accrued thereto shall be used for
1857 operational expenses. Surtax revenues shared with charter
1858 schools shall be expended by the charter school in a manner
1859 consistent with the allowable uses set forth in s. 1013.62(4).
1860 All revenues and expenditures shall be accounted for in a
1861 charter school's monthly or quarterly financial statement
1862 pursuant to s. 1002.33(9).
1863 (d) Surtax revenues collected by the Department of Revenue
1864 pursuant to this subsection shall be distributed to the school
1865 board imposing the surtax in accordance with law.
1866 Section 27. The amendment made by this act to s.
1867 212.055(6), Florida Statutes, which amends the allowable uses of
1868 the school capital outlay surtax, applies to levies authorized
1869 by vote of the electors on or after July 1, 2020.
1870 Section 28. Effective January 1, 2021, Section 212.134,
1871 Florida Statutes, is created to read:
1872 212.134 Information returns relating to payment-card and
1873 third-party network transactions.—

1874 (1) For each year in which a payment settlement entity, an
1875 electronic payment facilitator, or other third party contracted
1876 with the payment settlement entity to make payments to settle
1877 reportable payment transactions on behalf of the payment
1878 settlement entity must file a return pursuant to section 6050W
1879 of the Internal Revenue Code, the entity, the facilitator, or
1880 the third party must submit the information in the return to the
1881 department by the 15th day after filing the federal return. The
1882 format of the information returns required must be either a copy
1883 of such information returns or a copy of such information
1884 returns related to participating payees with an address in the
1885 state. For purposes of this subsection, the term "payment
1886 settlement entity" has the same meaning as provided in section
1887 6050W of the Internal Revenue Code.
1888 (2) All reports submitted to the department under this
1889 section must be in an electronic format.
1890 (3) Any payment settlement entity, facilitator, or third
1891 party failing to file the information return required, filing an
1892 incomplete information return, or not filing an information
1893 return within the time prescribed is subject to a penalty of
1894 $1,000 for each failure, if the failure is for not more than 30
1895 days, with an additional $1,000 for each month or fraction of a
1896 month during which each failure continues. The total amount of
1897 penalty imposed on a reporting entity may not exceed $10,000
1898 annually.

1899 (4) The executive director or his or her designee may
1900 waive the penalty if he or she determines that the failure to
1901 timely file an information return was due to reasonable cause
1902 and not due to willful negligence, willful neglect, or fraud.
1903 Section 29. Section 212.181, Florida Statutes, is created
1904 to read:
1905 212.181 Determination of business address situs,
1906 distributions, and adjustments.—
1907 (1) For each certificate of registration issued pursuant
1908 to s. 212.18(3)(b), the department shall assign the place of
1909 business to a county based on the location address provided at
1910 the time of registration or at the time the dealer notifies the
1911 department of a change in a business location address.
1912 (2)(a) Each county that furnishes to the department
1913 information needed to update the electronic database created and
1914 maintained pursuant to s. 202.22(2)(a), including addresses of
1915 new developments, changes in addresses, annexations,
1916 incorporations, reorganizations, and any other changes in
1917 jurisdictional boundaries within the county, must specify an
1918 effective date, which must be the next ensuing January 1 or July
1919 1, and must be furnished to the department at least 120 days
1920 before the effective date. A county that provides notification
1921 to the department at least 120 days before the effective date
1922 that it has reviewed the database and has no changes for the
1923 ensuing January 1 or July 1 satisfies the requirement of this

1924 paragraph.
1925 (b) A county that imposes a tourist development tax in a
1926 subcounty special district pursuant to s. 125.0104(3)(b) must
1927 identify the subcounty special district addresses to which the
1928 tourist development tax applies as part of the address
1929 information submission required under paragraph (a). This
1930 paragraph does not apply to counties that self-administer the
1931 tax pursuant to s. 125.0104(10).
1932 (c) The department shall update the electronic database
1933 created and maintained under s. 202.022(2)(a) using the
1934 information furnished by local taxing jurisdictions under
1935 paragraph (a) and shall ensure each business location is
1936 correctly assigned to the applicable county pursuant to
1937 subsection (1). Each update must specify the effective date as
1938 the next ensuing January 1 or July 1 and must be posted by the
1939 department on a website not less than 90 days before the
1940 effective date.
1941 (3)(a) For distributions made pursuant to ss. 125.0104,
1942 212.20(6)(a), 212.20(6)(b), and 212.20(6)(d)2., misallocations
1943 occurring solely due to the assignment of an address to an
1944 incorrect county will be corrected prospectively only from the
1945 date the department is made aware of the misallocation, subject
1946 to the following:
1947 1. If the county that should have received the
1948 misallocated distributions followed with the notification and

1949 timing provisions in subsection (2) for the affected periods,
1950 such misallocations may be adjusted by prorating current and
1951 future distributions for the period the misallocation occurred,
1952 not to exceed 36 months from the date the department is made
1953 aware of the misallocation;
1954 2. If the county that received the misallocated
1955 distribution followed the notification and timing provisions in
1956 subsection (2) for the affected periods and the county that
1957 should have received the misallocation did not, the correction
1958 shall apply only prospectively from the date the department is
1959 made aware of the misallocation.
1960 (b) Nothing in this subsection prevents affected counties
1961 from determining an alternative method of adjustment pursuant to
1962 an interlocal agreement. Affected counties with an interlocal
1963 agreement must provide a copy of the interlocal agreement
1964 specifying an alternative method of adjustment to the department
1965 within 90 days after the date of the department's notice of the
1966 misallocation.
1967 (4) The department may adopt rules to administer this
1968 section, including rules establishing procedures and forms.
1969 Section 30. Paragraph (d) of subsection (6) of section
1970 212.20, Florida Statutes, is amended to read:
1971 212.20 Funds collected, disposition; additional powers of
1972 department; operational expense; refund of taxes adjudicated
1973 unconstitutionally collected.—

1974 (6) Distribution of all proceeds under this chapter and
1975 ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:
1976 (d) The proceeds of all other taxes and fees imposed
1977 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
1978 and (2)(b) shall be distributed as follows:
1979 1. In any fiscal year, the greater of $500 million, minus
1980 an amount equal to 4.6 percent of the proceeds of the taxes
1981 collected pursuant to chapter 201, or 5.2 percent of all other
1982 taxes and fees imposed pursuant to this chapter or remitted
1983 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
1984 monthly installments into the General Revenue Fund.
1985 2. After the distribution under subparagraph 1., 8.9744
1986 percent of the amount remitted by a sales tax dealer located
1987 within a participating county pursuant to s. 218.61 shall be
1988 transferred into the Local Government Half-cent Sales Tax
1989 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
1990 transferred shall be reduced by 0.1 percent, and the department
1991 shall distribute this amount to the Public Employees Relations
1992 Commission Trust Fund less $5,000 each month, which shall be
1993 added to the amount calculated in subparagraph 3. and
1994 distributed accordingly.
1995 3. After the distribution under subparagraphs 1. and 2.,
1996 0.0966 percent shall be transferred to the Local Government
1997 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant
1998 to s. 218.65.

1999 4. After the distributions under subparagraphs 1., 2., and
2000 3., 2.0810 percent of the available proceeds shall be
2001 transferred monthly to the Revenue Sharing Trust Fund for
2002 Counties pursuant to s. 218.215.
2003 5. After the distributions under subparagraphs 1., 2., and
2004 3., 1.3653 percent of the available proceeds shall be
2005 transferred monthly to the Revenue Sharing Trust Fund for
2006 Municipalities pursuant to s. 218.215. If the total revenue to
2007 be distributed pursuant to this subparagraph is at least as
2008 great as the amount due from the Revenue Sharing Trust Fund for
2009 Municipalities and the former Municipal Financial Assistance
2010 Trust Fund in state fiscal year 1999-2000, no municipality shall
2011 receive less than the amount due from the Revenue Sharing Trust
2012 Fund for Municipalities and the former Municipal Financial
2013 Assistance Trust Fund in state fiscal year 1999-2000. If the
2014 total proceeds to be distributed are less than the amount
2015 received in combination from the Revenue Sharing Trust Fund for
2016 Municipalities and the former Municipal Financial Assistance
2017 Trust Fund in state fiscal year 1999-2000, each municipality
2018 shall receive an amount proportionate to the amount it was due
2019 in state fiscal year 1999-2000.
2020 6. Of the remaining proceeds:
2021 a. In each fiscal year, the sum of $29,915,500 shall be
2022 divided into as many equal parts as there are counties in the
2023 state, and one part shall be distributed to each county. The

2024 distribution among the several counties must begin each fiscal
2025 year on or before January 5th and continue monthly for a total
2026 of 4 months. If a local or special law required that any moneys
2027 accruing to a county in fiscal year 1999-2000 under the then-
2028 existing provisions of s. 550.135 be paid directly to the
2029 district school board, special district, or a municipal
2030 government, such payment must continue until the local or
2031 special law is amended or repealed. The state covenants with
2032 holders of bonds or other instruments of indebtedness issued by
2033 local governments, special districts, or district school boards
2034 before July 1, 2000, that it is not the intent of this
2035 subparagraph to adversely affect the rights of those holders or
2036 relieve local governments, special districts, or district school
2037 boards of the duty to meet their obligations as a result of
2038 previous pledges or assignments or trusts entered into which
2039 obligated funds received from the distribution to county
2040 governments under then-existing s. 550.135. This distribution
2041 specifically is in lieu of funds distributed under s. 550.135
2042 before July 1, 2000.
2043 b. The department shall distribute $166,667 monthly to
2044 each applicant certified as a facility for a new or retained
2045 professional sports franchise pursuant to s. 288.1162. Up to
2046 $41,667 shall be distributed monthly by the department to each
2047 certified applicant as defined in s. 288.11621 for a facility
2048 for a spring training franchise. However, not more than $416,670

2049 may be distributed monthly in the aggregate to all certified
2050 applicants for facilities for spring training franchises.
2051 Distributions begin 60 days after such certification and
2052 continue for not more than 30 years, except as otherwise
2053 provided in s. 288.11621. A certified applicant identified in
2054 this sub-subparagraph may not receive more in distributions than
2055 expended by the applicant for the public purposes provided in s.
2056 288.1162(5) or s. 288.11621(3).
2057 c. Beginning 30 days after notice by the Department of
2058 Economic Opportunity to the Department of Revenue that an
2059 applicant has been certified as the professional golf hall of
2060 fame pursuant to s. 288.1168 and is open to the public, $166,667
2061 shall be distributed monthly, for up to 300 months, to the
2062 applicant.
2063 d. Beginning 30 days after notice by the Department of
2064 Economic Opportunity to the Department of Revenue that the
2065 applicant has been certified as the International Game Fish
2066 Association World Center facility pursuant to s. 288.1169, and
2067 the facility is open to the public, $83,333 shall be distributed
2068 monthly, for up to 168 months, to the applicant. This
2069 distribution is subject to reduction pursuant to s. 288.1169. A
2070 lump sum payment of $999,996 shall be made after certification
2071 and before July 1, 2000.
2072 e. The department shall distribute up to $83,333 monthly
2073 to each certified applicant as defined in s. 288.11631 for a

2074 facility used by a single spring training franchise, or up to
2075 $166,667 monthly to each certified applicant as defined in s.
2076 288.11631 for a facility used by more than one spring training
2077 franchise. Monthly distributions begin 60 days after such
2078 certification or July 1, 2016, whichever is later, and continue
2079 for not more than 20 years to each certified applicant as
2080 defined in s. 288.11631 for a facility used by a single spring
2081 training franchise or not more than 25 years to each certified
2082 applicant as defined in s. 288.11631 for a facility used by more
2083 than one spring training franchise. A certified applicant
2084 identified in this sub-subparagraph may not receive more in
2085 distributions than expended by the applicant for the public
2086 purposes provided in s. 288.11631(3).
2087 ~~f. Beginning 45 days after notice by the Department of~~
2088 ~~Economic Opportunity to the Department of Revenue that an~~
2089 ~~applicant has been approved by the Legislature and certified by~~
2090 ~~the Department of Economic Opportunity under s. 288.11625 or~~
2091 ~~upon a date specified by the Department of Economic Opportunity~~
2092 ~~as provided under s. 288.11625(6)(d), the department shall~~
2093 ~~distribute each month an amount equal to one twelfth of the~~
2094 ~~annual distribution amount certified by the Department of~~
2095 ~~Economic Opportunity for the applicant. The department may not~~
2096 ~~distribute more than $7 million in the 2014-2015 fiscal year or~~
2097 ~~more than $13 million annually thereafter under this sub-~~
2098 ~~subparagraph.~~

2099 f.~~g. Beginning December 1, 2015, and ending June 30, 2016,~~
2100 ~~the department shall distribute $26,286 monthly to the State~~
2101 ~~Transportation Trust Fund.~~ Beginning July 1, 2016, the
2102 department shall distribute $15,333 monthly to the State
2103 Transportation Trust Fund.
2104 7. All other proceeds must remain in the General Revenue
2105 Fund.
2106 Section 31. Section 212.205, Florida Statutes, is amended
2107 to read:
2108 212.205 Sales tax distribution reporting.—By March 15 of
2109 each year, each person who received a distribution pursuant to
2110 s. 212.20(6)(d)6.b.-e. ~~s. 212.20(6)(d)6.b.-f.~~ in the preceding
2111 calendar year shall report to the Office of Economic and
2112 Demographic Research the following information:
2113 (1) An itemized accounting of all expenditures of the
2114 funds distributed in the preceding calendar year, including
2115 amounts spent on debt service.
2116 (2) A statement indicating what portion of the distributed
2117 funds have been pledged for debt service.
2118 (3) The original principal amount and current debt service
2119 schedule of any bonds or other borrowing for which the
2120 distributed funds have been pledged for debt service.
2121 Section 32. Subsection (2) and paragraph (c) of subsection
2122 (3) of section 218.64, Florida Statutes, are amended to read:
2123 218.64 Local government half-cent sales tax; uses;

2124 limitations.—
2125 (2) Municipalities shall expend their portions of the
2126 local government half-cent sales tax only for municipality-wide
2127 programs~~, for reimbursing the state as required pursuant to s.~~
2128 ~~288.11625,~~ or for municipality-wide property tax or municipal
2129 utility tax relief. All utility tax rate reductions afforded by
2130 participation in the local government half-cent sales tax shall
2131 be applied uniformly across all types of taxed utility services.
2132 (3) Subject to ordinances enacted by the majority of the
2133 members of the county governing authority and by the majority of
2134 the members of the governing authorities of municipalities
2135 representing at least 50 percent of the municipal population of
2136 such county, counties may use up to $3 million annually of the
2137 local government half-cent sales tax allocated to that county
2138 for any of the following purposes:
2139 ~~(c) Reimbursing the state as required under s. 288.11625.~~
2140 Section 33. Section 213.0537, Florida Statutes, is created
2141 to read:
2142 213.0537 Electronic notification with affirmative
2143 consent.—
2144 (1) Notwithstanding any other provision of law, the
2145 department may send notices electronically, by postal mail, or
2146 both. Electronic transmission may be used only with the
2147 affirmative consent of the taxpayer or its representative.
2148 Documents sent pursuant to this section comply with the same

2149 timing and form requirements as documents sent by postal mail.
2150 If a document sent electronically is returned as undeliverable,
2151 the department must re-send the document by postal mail.
2152 However, the original electronic transmission used with the
2153 affirmative consent of the taxpayer or its representative is the
2154 official mailing for purposes of this chapter.
2155 (2) A notice sent electronically will be considered to
2156 have been received by the recipient if the transmission is
2157 addressed to the address provided by the taxpayer or its
2158 representative. A notice sent electronically will be considered
2159 received even if no individual is aware of its receipt. In
2160 addition, a notice sent electronically shall be considered
2161 received if the department does not receive notification that
2162 the document was undeliverable.
2163 (3) For the purposes of this section, the term:
2164 (a) "Affirmative consent" means that the taxpayer or its
2165 representative expressly consented to receive notices
2166 electronically either in response to a clear and conspicuous
2167 request for the taxpayer's or its representative's consent, or
2168 at the taxpayer's or its representative's own initiative.
2169 (b) "Notice" means all communications from the department
2170 to the taxpayer or its representative, including, but not
2171 limited to, billings, notices issued during the course of an
2172 audit, proposed assessments, and final assessments authorized by
2173 this chapter and any other actions constituting final agency

2174 action within the meaning of chapter 120.
2175 Section 34. Paragraph (b) of subsection (1) of section
2176 213.21, Florida Statutes, is amended to read:
2177 213.21 Informal conferences; compromises.—
2178 (1)
2179 (b) The statute of limitations upon the issuance of final
2180 assessments and the period for filing a claim for refund as
2181 required by s. 215.26(2) for any transactions occurring during
2182 the audit period shall be tolled during the period in which the
2183 taxpayer is engaged in a procedure under this section.
2184 Section 35. Effective upon this act becoming a law,
2185 paragraph (a) of subsection (4) of section 220.1105, Florida
2186 Statutes, is amended to read:
2187 220.1105 Tax imposed; automatic refunds and downward
2188 adjustments to tax rates.—
2189 (4) For fiscal years 2018-2019 through 2020-2021, any
2190 amount by which net collections for a fiscal year exceed
2191 adjusted forecasted collections for that fiscal year shall only
2192 be used to provide refunds to corporate income tax payers as
2193 follows:
2194 (a) For purposes of this subsection, the term:
2195 1. "Eligible taxpayer" means:
2196 a. For fiscal year 2018-2019, a taxpayer whose taxable
2197 year begins between April 1, 2017, and March 31, 2018, and whose
2198 final tax liability for such taxable year is greater than zero;

2199 b. For fiscal year 2019-2020, a taxpayer whose taxable
2200 year begins between April 1, 2018, and March 31, 2019, and whose
2201 final tax liability for such taxable year is greater than zero;
2202 or
2203 c. For fiscal year 2020-2021 a taxpayer whose taxable year
2204 begins between April 1, 2019, and March 31, 2020, and whose
2205 final tax liability for such taxable year is greater than zero.
2206 2. "Excess collections" for a fiscal year means the amount
2207 by which net collections for a fiscal year exceeds adjusted
2208 forecasted collections for that fiscal year.
2209 3. "Final tax liability" means the taxpayer's amount of
2210 tax due under this chapter for a taxable year, reported on a
2211 return filed with the department, plus the amount of any credit
2212 taken on such return under s. 220.1875.
2213 4. "Total eligible tax liability" for a fiscal year means
2214 the sum of final tax liabilities of all eligible taxpayers for a
2215 fiscal year as such liabilities are shown on the latest return
2216 filed with the department as of February 1 immediately following
2217 that fiscal year.
2218 5. "Taxpayer refund share" for a fiscal year means an
2219 eligible taxpayer's final tax liability as a percentage of the
2220 total eligible tax liability for that fiscal year.
2221 6. "Taxpayer refund" for a fiscal year means the taxpayer
2222 refund share for a fiscal year multiplied by the excess
2223 collections for a fiscal year.

2224 Section 36. (1) The amendment made by this act to s.
2225 220.1105(4)(a)3., Florida Statutes, is remedial in nature and
2226 applies retroactively.
2227 (2) This section is effective upon this act becoming a law.
2228 Section 37. Paragraph (f) of subsection (2) of section
2229 220.1845, Florida Statutes, is amended to read:
2230 220.1845 Contaminated site rehabilitation tax credit.—
2231 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—
2232 (f) The total amount of the tax credits which may be
2233 granted under this section is $18.2 ~~$18.5~~ million in ~~the 2018-~~
2234 ~~2019~~ fiscal year 2020-2021 and $10 million each fiscal year
2235 thereafter.
2236 Section 38. Paragraph (e) of subsection (2) of section
2237 288.0001, Florida Statutes, is amended to read:
2238 288.0001 Economic Development Programs Evaluation.—The
2239 Office of Economic and Demographic Research and the Office of
2240 Program Policy Analysis and Government Accountability (OPPAGA)
2241 shall develop and present to the Governor, the President of the
2242 Senate, the Speaker of the House of Representatives, and the
2243 chairs of the legislative appropriations committees the Economic
2244 Development Programs Evaluation.
2245 (2) The Office of Economic and Demographic Research and
2246 OPPAGA shall provide a detailed analysis of economic development
2247 programs as provided in the following schedule:
2248 ~~(e) Beginning January 1, 2018, and every 3 years~~

2249 ~~thereafter, an analysis of the Sports Development Program~~
2250 ~~established under s. 288.11625.~~
2251 Section 39. Section 288.11625, Florida Statutes, is
2252 repealed.
2253 Section 40. Subsection (4) of section 376.30781, Florida
2254 Statutes, is amended to read:
2255 376.30781 Tax credits for rehabilitation of drycleaning-
2256 solvent-contaminated sites and brownfield sites in designated
2257 brownfield areas; application process; rulemaking authority;
2258 revocation authority.—
2259 (4) The Department of Environmental Protection is
2260 responsible for allocating the tax credits provided for in s.
2261 220.1845, which may not exceed a total of $18.2 ~~$18.5~~ million in
2262 tax credits in fiscal year 2020-2021 ~~2018-2019~~ and $10 million
2263 in tax credits each fiscal year thereafter.
2264 Section 41. Subsection (1) of section 413.4021, Florida
2265 Statutes, is amended to read:
2266 413.4021 Program participant selection; tax collection
2267 enforcement diversion program.—The Department of Revenue, in
2268 coordination with the Florida Association of Centers for
2269 Independent Living and the Florida Prosecuting Attorneys
2270 Association, shall select judicial circuits in which to operate
2271 the program. The association and the state attorneys' offices
2272 shall develop and implement a tax collection enforcement
2273 diversion program, which shall collect revenue due from persons

2274 who have not remitted their collected sales tax. The criteria
2275 for referral to the tax collection enforcement diversion program
2276 shall be determined cooperatively between the state attorneys'
2277 offices and the Department of Revenue.
2278 (1) Notwithstanding s. 212.20, 75 ~~50~~ percent of the
2279 revenues collected from the tax collection enforcement diversion
2280 program shall be deposited into the special reserve account of
2281 the Florida Association of Centers for Independent Living, to be
2282 used to administer the James Patrick Memorial Work Incentive
2283 Personal Attendant Services and Employment Assistance Program
2284 and to contract with the state attorneys participating in the
2285 tax collection enforcement diversion program in an amount of not
2286 more than $75,000 for each state attorney.
2287 Section 42. Subsections (1), (2), and (5) of section
2288 443.163, Florida Statutes, are amended to read:
2289 443.163 Electronic reporting and remitting of
2290 contributions and reimbursements.—
2291 (1) An employer may file any report and remit any
2292 contributions or reimbursements required under this chapter by
2293 electronic means. The Department of Economic Opportunity or the
2294 state agency providing reemployment assistance tax collection
2295 services shall adopt rules prescribing the format and
2296 instructions necessary for electronically filing reports and
2297 remitting contributions and reimbursements to ensure a full
2298 collection of contributions and reimbursements due. The

2299 acceptable method of transfer, the method, form, and content of
2300 the electronic means, and the method, if any, by which the
2301 employer will be provided with an acknowledgment shall be
2302 prescribed by the department or its tax collection service
2303 provider. However, any employer who employed 10 or more
2304 employees in any quarter during the preceding state fiscal year
2305 must file the Employers Quarterly Reports, including any
2306 corrections, for the current calendar year and remit the
2307 contributions and reimbursements due by electronic means
2308 approved by the tax collection service provider. ~~A person who~~
2309 ~~prepared and reported for 100 or more employers in any quarter~~
2310 ~~during the preceding state fiscal year must file the Employers~~
2311 ~~Quarterly Reports for each calendar quarter in the current~~
2312 ~~calendar year, beginning with reports due for the second~~
2313 ~~calendar quarter of 2003, by electronic means approved by the~~
2314 ~~tax collection service provider.~~
2315 (2)~~(a)~~ An employer who is required by law to file an
2316 Employers Quarterly Report, including any corrections, by
2317 approved electronic means, but who files the report either
2318 directly or through an agent by a means other than approved
2319 electronic means, is liable for a penalty of $25 ~~$50~~ for that
2320 report and $1 for each employee, not to exceed $300. This
2321 penalty is in addition to any other penalty provided by this
2322 chapter. However, the penalty does not apply if the tax
2323 collection service provider waives the electronic filing

2324 requirement in advance. An employer who fails to remit
2325 contributions or reimbursements either directly or through an
2326 agent by approved electronic means as required by law is liable
2327 for a penalty of $25 ~~$50~~ for each remittance submitted by a
2328 means other than approved electronic means. This penalty is in
2329 addition to any other penalty provided by this chapter.
2330 ~~(b) A person who prepared and reported for 100 or more~~
2331 ~~employers in any quarter during the preceding state fiscal year,~~
2332 ~~but who fails to file an Employers Quarterly Report for each~~
2333 ~~calendar quarter in the current calendar year by approved~~
2334 ~~electronic means, is liable for a penalty of $50 for that report~~
2335 ~~and $1 for each employee. This penalty is in addition to any~~
2336 ~~other penalty provided by this chapter. However, the penalty~~
2337 ~~does not apply if the tax collection service provider waives the~~
2338 ~~electronic filing requirement in advance.~~
2339 (5) The tax collection service provider may waive the
2340 penalty imposed by this section if a ~~written~~ request for a
2341 waiver ~~is filed which~~ establishes that imposition would be
2342 inequitable. Examples of inequity include, but are not limited
2343 to, situations where the failure to electronically file was
2344 caused by one of the following factors:
2345 (a) Death or serious illness of the person responsible for
2346 the preparation and filing of the report.
2347 (b) Destruction of the business records by fire or other
2348 casualty.

2349 (c) Unscheduled and unavoidable computer downtime.
2350 Section 43. Subsection (3) of section 718.111, Florida
2351 Statutes, is amended to read:
2352 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
2353 SUE, AND BE SUED; CONFLICT OF INTEREST.—
2354 (a) The association may contract, sue, or be sued with
2355 respect to the exercise or nonexercise of its powers. For these
2356 purposes, the powers of the association include, but are not
2357 limited to, the maintenance, management, and operation of the
2358 condominium property.
2359 (b) After control of the association is obtained by unit
2360 owners other than the developer, the association may:
2361 1. Institute, maintain, settle, or appeal actions or
2362 hearings in its name on behalf of all unit owners concerning
2363 matters of common interest to most or all unit owners,
2364 including, but not limited to, the common elements; the roof and
2365 structural components of a building or other improvements;
2366 mechanical, electrical, and plumbing elements serving an
2367 improvement or a building; representations of the developer
2368 pertaining to any existing or proposed commonly used facilities;
2369 2. Protest ~~and protesting~~ ad valorem taxes on commonly
2370 used facilities and on units; ~~and may~~
2371 3. Defend actions pertaining to ad valorem taxation of
2372 commonly used facilities or units or related to ~~in~~ eminent
2373 domain; or

2374 4. Bring inverse condemnation actions.
2375 (c) If the association has the authority to maintain a
2376 class action, the association may be joined in an action as
2377 representative of that class with reference to litigation and
2378 disputes involving the matters for which the association could
2379 bring a class action.
2380 (d) The association, in its own name or on behalf of some
2381 or all unit owners, may institute, file, protest, maintain, or
2382 defend any administrative challenge, lawsuit, appeal, or other
2383 challenge to ad valorem taxes assessed on units for commonly
2384 used facilities or common elements. The affected association
2385 members are not necessary or indispensable parties to such
2386 actions. This paragraph is intended to clarify existing law and
2387 applies to cases pending on July 1, 2020.
2388 (e) Nothing herein limits any statutory or common-law
2389 right of any individual unit owner or class of unit owners to
2390 bring any action without participation by the association which
2391 may otherwise be available.
2392 (f) An association may not hire an attorney who represents
2393 the management company of the association.
2394 Section 44. Clothing, school supplies, personal computers,
2395 and personal computer-related accessories; sales tax holiday.—
2396 (1) The tax levied under chapter 212, Florida Statutes,
2397 may not be collected during the period from August 7, 2020,
2398 through August 9, 2020, on the retail sale of:

2399 (a) Clothing, wallets, or bags, including handbags,
2400 backpacks, fanny packs, and diaper bags, but excluding
2401 briefcases, suitcases, and other garment bags, having a sales
2402 price of $60 or less per item. As used in this paragraph, the
2403 term "clothing" means:
2404 1. Any article of wearing apparel intended to be worn on
2405 or about the human body, excluding watches, watchbands, jewelry,
2406 umbrellas, and handkerchiefs; and
2407 2. All footwear, excluding skis, swim fins, roller blades,
2408 and skates.
2409 (b) School supplies having a sales price of $15 or less
2410 per item. As used in this paragraph, the term "school supplies"
2411 means pens, pencils, erasers, crayons, notebooks, notebook
2412 filler paper, legal pads, binders, lunch boxes, construction
2413 paper, markers, folders, poster board, composition books, poster
2414 paper, scissors, cellophane tape, glue or paste, rulers,
2415 computer disks, staplers and staples used to secure paper
2416 products, protractors, compasses, and calculators.
2417 (2) The tax levied under chapter 212, Florida Statutes,
2418 may not be collected during the period from August 7, 2020,
2419 through August 9, 2020, on the first $1,000 of the sales price
2420 of personal computers or personal computer-related accessories
2421 purchased for noncommercial home or personal use. As used in
2422 this subsection, the term:
2423 (a) "Personal computers" includes electronic book readers,

2424 laptops, desktops, handheld devices, tablets, or tower
2425 computers. The term does not include cellular telephones, video
2426 game consoles, digital media receivers, or devices that are not
2427 primarily designed to process data.
2428 (b) "Personal computer-related accessories" includes
2429 keyboards, mice, personal digital assistants, monitors, other
2430 peripheral devices, modems, routers, and nonrecreational
2431 software, regardless of whether the accessories are used in
2432 association with a personal computer base unit. The term does
2433 not include furniture or systems, devices, software, or
2434 peripherals that are designed or intended primarily for
2435 recreational use. The term "monitor" does not include any device
2436 that includes a television tuner.
2437 (3) The tax exemptions provided in this section do not
2438 apply to sales within a theme park or entertainment complex as
2439 defined in s. 509.013(9), Florida Statutes, within a public
2440 lodging establishment as defined in s. 509.013(4), Florida
2441 Statutes, or within an airport as defined in s. 330.27(2),
2442 Florida Statutes.
2443 (4) The tax exemptions provided in this section may apply
2444 at the option of a dealer if less than 5 percent of the dealer's
2445 gross sales of tangible personal property in the prior calendar
2446 year are comprised of items that would be exempt under this
2447 section. If a qualifying dealer chooses not to participate in
2448 the tax holiday, by August 1, 2020, the dealer must notify the

2449 Department of Revenue in writing of its election to collect
2450 sales tax during the holiday and must post a copy of that notice
2451 in a conspicuous location at its place of business.
2452 (5) The Department of Revenue is authorized, and all
2453 conditions are deemed met, to adopt emergency rules pursuant to
2454 s. 120.54(4), Florida Statutes, for the purpose of implementing
2455 this section. Notwithstanding any other provision of law,
2456 emergency rules adopted pursuant to this subsection are
2457 effective for 6 months after adoption and may be renewed during
2458 the pendency of procedures to adopt permanent rules addressing
2459 the subject of the emergency rules.
2460 (6) For the 2019-2020 fiscal year, the sum of $241,000 in
2461 nonrecurring funds is appropriated from the General Revenue Fund
2462 to the Department of Revenue for the purpose of implementing
2463 this section. Funds remaining unexpended or unencumbered from
2464 this appropriation as of June 30, 2020, shall revert and be
2465 reappropriated for the same purpose in the 2020-2021 fiscal
2466 year.
2467 (7) This section shall take effect upon this act becoming
2468 a law.
2469 Section 45. Disaster preparedness supplies; sales tax
2470 holiday.—
2471 (1) The tax levied under chapter 212, Florida Statutes,
2472 may not be collected during the period from May 29, 2020,
2473 through June 4, 2020, on the sale of:

2474 (a) A portable self-powered light source selling for $20
2475 or less.
2476 (b) A portable self-powered radio, two-way radio, or
2477 weather-band radio selling for $50 or less.
2478 (c) A tarpaulin or other flexible waterproof sheeting
2479 selling for $50 or less.
2480 (d) An item normally sold as, or generally advertised as,
2481 a ground anchor system or tie-down kit selling for $50 or less.
2482 (e) A gas or diesel fuel tank selling for $25 or less.
2483 (f) A package of AA-cell, AAA-cell, C-cell, D-cell, 6-
2484 volt, or 9-volt batteries, excluding automobile and boat
2485 batteries, selling for $30 or less.
2486 (g) A nonelectric food storage cooler selling for $30 or
2487 less.
2488 (h) A portable generator used to provide light or
2489 communications or preserve food in the event of a power outage
2490 selling for $750 or less.
2491 (i) Reusable ice selling for $10 or less.
2492 (2) The tax exemptions provided in this section do not
2493 apply to sales within a theme park or entertainment complex as
2494 defined in s. 509.013(9), Florida Statutes, within a public
2495 lodging establishment as defined in s. 509.013(4), Florida
2496 Statutes, or within an airport as defined in s. 330.27(2),
2497 Florida Statutes.
2498 (3) The Department of Revenue is authorized, and all

2499 conditions are deemed met, to adopt emergency rules pursuant to
2500 s. 120.54(4), Florida Statutes, to administer this section.
2501 (4) For the 2019-2020 fiscal year, the sum of $70,000 in
2502 nonrecurring funds is appropriated from the General Revenue Fund
2503 to the Department of Revenue for the purpose of implementing
2504 this section.
2505 (5) This section shall take effect upon this act becoming
2506 a law.
2507 Section 46. For the 2020-2021 fiscal year, the sum of
2508 $72,500 in nonrecurring funds is appropriated from the General
2509 Revenue Fund to the Department of Revenue to administer this
2510 act.
2511 Section 47. The Division of Law Revision is directed to
2512 replace the phrase "the effective date of this act" wherever it
2513 occurs in this act with the date this act becomes a law.
2514 Section 48. (1) The Department of Revenue is authorized,
2515 and all conditions are deemed met, to adopt emergency rules
2516 pursuant to s. 120.54(4), Florida Statutes, for the purpose of
2517 implementing the changes made by this act to ss. 206.05,
2518 206.8741, 212.05, 212.134, 212.181, 231.21, 220.1105, Florida
2519 Statutes. Notwithstanding any other provision of law, emergency
2520 rules adopted pursuant to this subsection are effective for 6
2521 months after adoption and may be renewed during the pendency of
2522 procedures to adopt permanent rules addressing the subject of
2523 the emergency rules.

2524 (2) This section shall take effect upon this act becoming a
2525 law.
2526 Section 49. Except as otherwise expressly provided in this
2527 act, and except for this section, which shall take effect upon
2528 this act becoming a law, this act shall take effect July 1,
2529 2020.

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Avila offered the following:
3
4 **Amendment**
5 Remove line 269 and insert:
6 e. Septic-to-sewer conversion projects intended to prevent,
7 mitigate, or ameliorate damage to the water quality of surface
8 waters important to the tourism industry of the jurisdiction.

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Avila offered the following:
3
4 **Amendment**
5 Remove line 1567 and insert:
6 e. Septic-to-sewer conversion projects intended to prevent,
7 mitigate, or ameliorate damage to the water quality of surface
8 waters important to the tourism industry of the jurisdiction.

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Avila offered the following:
3
4 **Amendment**
5 Remove line 583 and insert:
6 14 days for unit owners to respond to the notice. Any unit owner

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Eskamani offered the following:
3
4 **Amendment (with title amendment)**
5 Remove lines 379-410
6
7
8 ----------
9 **T I T L E A M E N D M E N T**
10 Remove lines 10-14 and insert:
11 shall not be impaired; creating s. 193.1557, F.S.;

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Eskamani offered the following:
3
4 **Amendment (with title amendment)**
5 Remove lines 2184-2227 and insert:
6 Section 35. Section 220.1105, Florida Statutes, is
7 repealed.
8 Section 36. Subsection (2) of section 220.11, Florida
9 Statutes, is amended to read:
10 220.11 Tax imposed.—
11 (2)~~(a)~~ The tax imposed by this section shall be an amount
12 equal to 5 1/2 percent of the taxpayer's net income for the
13 taxable year~~, except as provided in paragraph (b)~~.
14 ~~(b) The tax rate imposed in paragraph (a) shall be~~
15 ~~adjusted as provided in s. 220.1105.~~

16 Section 37. Subsection (2) of section 220.63, Florida
17 Statutes, is amended to read:
18 220.63 Franchise tax imposed on banks and savings
19 associations.—
20 (2)~~(a)~~ The tax imposed by this section shall be an amount
21 equal to 5 1/2 percent of the franchise tax base of the bank or
22 savings association for the taxable year~~, except as provided in~~
23 ~~paragraph (b)~~.
24 ~~(b) The tax rate imposed in paragraph (a) shall be~~
25 ~~adjusted as provided in s. 220.1105.~~
26 Section 38. Corporate income taxes paid by corporations
27 and submitted to the Department of Revenue as a result of the
28 repeal of s. 220.1105, Florida Statutes, shall annually be
29 redirected by the department to the Agency for Persons with
30 Disabilities for use exclusively by the agency to reduce the
31 wait list for waiver services, using the priorities established
32 in s. 393.065(5), Florida Statutes.
33
34 Remove line 2518 and insert:
35 206.8741, 212.05, 212.134, 212.181, and 231.21, Florida
36
37 ----------
38 **T I T L E A M E N D M E N T**
39 Remove lines 128-131 and insert:

40 audit periods; repealing s. 220.1105, F.S., relating
41 to corporate income taxes imposed, automatic refunds,
42 and downward adjustments of such tax rates; providing
43 that the Agency for Persons with Disabilities shall
44 receive taxes collected as a result of the repeal
45 corporate income tax rate adjustments; specifying how
46 such funds are to be used; amending ss. 220.11 and
47 220.63, F.S.; conforming provisions to changes made by
48 the act; amending s. 220.1845, F.S.; increasing,

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Eskamani offered the following:
3
4 **Amendment (with title amendment)**
5 Between lines 2393 and 2394, insert:
6 Section 44. Paragraph (z) of subsection (1) of section
7 220.03, Florida Statutes, is amended, and paragraphs (gg) and
8 (hh) are added to that subsection, to read:
9 220.03 Definitions.—
10 (1) SPECIFIC TERMS.—When used in this code, and when not
11 otherwise distinctly expressed or manifestly incompatible with
12 the intent thereof, the following terms shall have the following
13 meanings:
14 (z) "Taxpayer" means any corporation subject to the tax
15 imposed by this code~~,~~ and includes all corporations that are
16 members of a water's edge group ~~for which a consolidated return~~

17 ~~is filed under s. 220.131~~. However, "taxpayer" does not include
18 a corporation having no individuals, ~~(~~including individuals
19 employed by an affiliate,~~)~~ receiving compensation in this state
20 as defined in s. 220.15 when the only property owned or leased
21 by said corporation, ~~(~~including an affiliate,~~)~~ in this state is
22 located at the premises of a printer with which it has
23 contracted for printing, if such property consists of the final
24 printed product, property which becomes a part of the final
25 printed product, or property from which the printed product is
26 produced.
27 (gg) "Tax haven" means a jurisdiction that, for a
28 particular tax year:
29 1. Is identified by the Organization for Economic Co-
30 operation and Development as a tax haven or as having a harmful
31 preferential tax regime; or
32 2.a. Is a jurisdiction that does not impose or imposes
33 only a nominal, effective tax on relevant income;
34 b. Has laws or practices that prevent the effective
35 exchange of information for tax purposes with other governments
36 regarding taxpayers who are subject to, or benefiting from, the
37 tax regime;
38 c. Lacks transparency;
39 d. Facilitates the establishment of foreign-owned entities
40 without the need for a local substantive presence or prohibits
41 these entities from having any commercial impact on the local

42 economy;
43 e. Explicitly or implicitly excludes the jurisdiction's
44 resident taxpayers from taking advantage of the tax regime's
45 benefits or prohibits enterprises that benefit from the regime
46 from operating in the jurisdiction's domestic market; or
47 f. Has created a tax regime that is favorable for tax
48 avoidance, based on an overall assessment of relevant factors,
49 including whether the jurisdiction has a significant untaxed
50 offshore financial or other services sector relative to its
51 overall economy.
52
53 For purposes of this paragraph, a tax regime lacks transparency
54 if the details of legislative, legal, or administrative
55 requirements are not open to public scrutiny and apparent or are
56 not consistently applied among similarly situated taxpayers. As
57 used in this paragraph, the term "tax regime" means a set or
58 system of rules, laws, regulations, or practices by which taxes
59 are imposed on any person, corporation, or entity, or on any
60 income, property, incident, indicia, or activity pursuant to
61 government authority.
62 (hh) "Water's edge group" means a group of corporations
63 related through common ownership whose business activities are
64 integrated with, dependent upon, or contribute to a flow of
65 value among members of the group.
66 Section 45. Section 220.13, Florida Statutes, is amended

67 to read:
68 220.13 "Adjusted federal income" defined.—
69 (1) The term "adjusted federal income" means an amount
70 equal to the taxpayer's taxable income as defined in subsection
71 (2), or such taxable income of more than one taxpayer as
72 provided in s. 220.1363 ~~s. 220.131~~, for the taxable year,
73 adjusted as follows:
74 (a) *Additions*.—There shall be added to such taxable
75 income:
76 1.a. The amount of any tax upon or measured by income,
77 excluding taxes based on gross receipts or revenues, paid or
78 accrued as a liability to the District of Columbia or any state
79 of the United States which is deductible from gross income in
80 the computation of taxable income for the taxable year.
81 b. Notwithstanding sub-subparagraph a., if a credit taken
82 under s. 220.1875 is added to taxable income in a previous
83 taxable year under subparagraph 11. and is taken as a deduction
84 for federal tax purposes in the current taxable year, the amount
85 of the deduction allowed shall not be added to taxable income in
86 the current year. The exception in this sub-subparagraph is
87 intended to ensure that the credit under s. 220.1875 is added in
88 the applicable taxable year and does not result in a duplicate
89 addition in a subsequent year.
90 2. The amount of interest which is excluded from taxable
91 income under s. 103(a) of the Internal Revenue Code or any other

92 federal law, less the associated expenses disallowed in the
93 computation of taxable income under s. 265 of the Internal
94 Revenue Code or any other law, excluding 60 percent of any
95 amounts included in alternative minimum taxable income, as
96 defined in s. 55(b)(2) of the Internal Revenue Code, if the
97 taxpayer pays tax under s. 220.11(3).
98 3. In the case of a regulated investment company or real
99 estate investment trust, an amount equal to the excess of the
100 net long-term capital gain for the taxable year over the amount
101 of the capital gain dividends attributable to the taxable year.
102 4. That portion of the wages or salaries paid or incurred
103 for the taxable year which is equal to the amount of the credit
104 allowable for the taxable year under s. 220.181. This
105 subparagraph shall expire on the date specified in s. 290.016
106 for the expiration of the Florida Enterprise Zone Act.
107 5. That portion of the ad valorem school taxes paid or
108 incurred for the taxable year which is equal to the amount of
109 the credit allowable for the taxable year under s. 220.182. This
110 subparagraph shall expire on the date specified in s. 290.016
111 for the expiration of the Florida Enterprise Zone Act.
112 6. The amount taken as a credit under s. 220.195 which is
113 deductible from gross income in the computation of taxable
114 income for the taxable year.
115 7. That portion of assessments to fund a guaranty
116 association incurred for the taxable year which is equal to the

117 amount of the credit allowable for the taxable year.
118 8. In the case of a nonprofit corporation which holds a
119 pari-mutuel permit and which is exempt from federal income tax
120 as a farmers' cooperative, an amount equal to the excess of the
121 gross income attributable to the pari-mutuel operations over the
122 attributable expenses for the taxable year.
123 9. The amount taken as a credit for the taxable year under
124 s. 220.1895.
125 10. Up to nine percent of the eligible basis of any
126 designated project which is equal to the credit allowable for
127 the taxable year under s. 220.185.
128 11. The amount taken as a credit for the taxable year
129 under s. 220.1875. The addition in this subparagraph is intended
130 to ensure that the same amount is not allowed for the tax
131 purposes of this state as both a deduction from income and a
132 credit against the tax. This addition is not intended to result
133 in adding the same expense back to income more than once.
134 12. The amount taken as a credit for the taxable year
135 under s. 220.192.
136 13. The amount taken as a credit for the taxable year
137 under s. 220.193.
138 14. Any portion of a qualified investment, as defined in
139 s. 288.9913, which is claimed as a deduction by the taxpayer and
140 taken as a credit against income tax pursuant to s. 288.9916.
141 15. The costs to acquire a tax credit pursuant to s.

142 288.1254(5) that are deducted from or otherwise reduce federal
143 taxable income for the taxable year.
144 16. The amount taken as a credit for the taxable year
145 pursuant to s. 220.194.
146 17. The amount taken as a credit for the taxable year
147 under s. 220.196. The addition in this subparagraph is intended
148 to ensure that the same amount is not allowed for the tax
149 purposes of this state as both a deduction from income and a
150 credit against the tax. The addition is not intended to result
151 in adding the same expense back to income more than once.
152 (b) *Subtractions.*—
153 1. There shall be subtracted from such taxable income:
154 a. The net operating loss deduction allowable for federal
155 income tax purposes under s. 172 of the Internal Revenue Code
156 for the taxable year, except that any net operating loss that is
157 transferred pursuant to s. 220.194(6) may not be deducted by the
158 seller,
159 b. The net capital loss allowable for federal income tax
160 purposes under s. 1212 of the Internal Revenue Code for the
161 taxable year,
162 c. The excess charitable contribution deduction allowable
163 for federal income tax purposes under s. 170(d)(2) of the
164 Internal Revenue Code for the taxable year, and
165 d. The excess contributions deductions allowable for
166 federal income tax purposes under s. 404 of the Internal Revenue

167 Code for the taxable year.
168
169 However, a net operating loss and a capital loss shall never be
170 carried back as a deduction to a prior taxable year, but all
171 deductions attributable to such losses shall be deemed net
172 operating loss carryovers and capital loss carryovers,
173 respectively, and treated in the same manner, to the same
174 extent, and for the same time periods as are prescribed for such
175 carryovers in ss. 172 and 1212, respectively, of the Internal
176 Revenue Code. A deduction is not allowed for net operating
177 losses, net capital losses, or excess contribution deductions
178 under 26 U.S.C. ss. 170(d)(2), 172, 1212, and 404 for a member
179 of a water's edge group who is not a United States member.
180 Carryovers of net operating losses, net capital losses, or
181 excess contribution deductions under 26 U.S.C. ss. 170(d)(2),
182 172, 1212, and 404 may be subtracted only by the member of the
183 water's edge group who generates a carryover.
184 2. There shall be subtracted from such taxable income any
185 amount to the extent included therein the following:
186 a. Dividends treated as received from sources without the
187 United States, as determined under s. 862 of the Internal
188 Revenue Code.
189 b. All amounts included in taxable income under s. 78, s.
190 951, or s. 951A of the Internal Revenue Code.
191

192 However, any amount subtracted under this subparagraph is
193 allowed only to the extent such amount is not deductible in
194 determining federal taxable income. As to any amount subtracted
195 under this subparagraph, there shall be added to such taxable
196 income all expenses deducted on the taxpayer's return for the
197 taxable year which are attributable, directly or indirectly, to
198 such subtracted amount. Further, no amount shall be subtracted
199 with respect to dividends paid or deemed paid by a Domestic
200 International Sales Corporation.
201 3. Amounts received by a member of a water's edge group as
202 dividends paid by another member of the water's edge group must
203 be subtracted from the taxable income if the dividends are
204 included in the taxable income.
205 4.~~3.~~ In computing "adjusted federal income" for taxable
206 years beginning after December 31, 1976, there shall be allowed
207 as a deduction the amount of wages and salaries paid or incurred
208 within this state for the taxable year for which no deduction is
209 allowed pursuant to s. 280C(a) of the Internal Revenue Code
210 (relating to credit for employment of certain new employees).
211 5.~~4.~~ There shall be subtracted from such taxable income
212 any amount of nonbusiness income included therein.
213 6.~~5.~~ There shall be subtracted any amount of taxes of
214 foreign countries allowable as credits for taxable years
215 beginning on or after September 1, 1985, under s. 901 of the
216 Internal Revenue Code to any corporation which derived less than

217 20 percent of its gross income or loss for its taxable year
218 ended in 1984 from sources within the United States, as
219 described in s. 861(a)(2)(A) of the Internal Revenue Code, not
220 including credits allowed under ss. 902 and 960 of the Internal
221 Revenue Code, withholding taxes on dividends within the meaning
222 of sub-subparagraph 2.a., and withholding taxes on royalties,
223 interest, technical service fees, and capital gains.
224 7.~~6.~~ Notwithstanding any other provision of this code,
225 except with respect to amounts subtracted pursuant to
226 subparagraphs 1. and 4. ~~3.~~, any increment of any apportionment
227 factor which is directly related to an increment of gross
228 receipts or income which is deducted, subtracted, or otherwise
229 excluded in determining adjusted federal income shall be
230 excluded from both the numerator and denominator of such
231 apportionment factor. Further, all valuations made for
232 apportionment factor purposes shall be made on a basis
233 consistent with the taxpayer's method of accounting for federal
234 income tax purposes.
235 (c) *Installment sales occurring after October 19, 1980.*—
236 1. In the case of any disposition made after October 19,
237 1980, the income from an installment sale shall be taken into
238 account for the purposes of this code in the same manner that
239 such income is taken into account for federal income tax
240 purposes.
241 2. Any taxpayer who regularly sells or otherwise disposes

242 of personal property on the installment plan and reports the
243 income therefrom on the installment method for federal income
244 tax purposes under s. 453(a) of the Internal Revenue Code shall
245 report such income in the same manner under this code.
246 (d) *Nonallowable deductions.*—A deduction for net operating
247 losses, net capital losses, or excess contributions deductions
248 under ss. 170(d)(2), 172, 1212, and 404 of the Internal Revenue
249 Code which has been allowed in a prior taxable year for Florida
250 tax purposes shall not be allowed for Florida tax purposes,
251 notwithstanding the fact that such deduction has not been fully
252 utilized for federal tax purposes.
253 (e) *Adjustments related to federal acts.*—Taxpayers must
254 ~~shall be required to~~ make the adjustments prescribed in this
255 paragraph for Florida tax purposes with respect to certain tax
256 benefits received pursuant to the Economic Stimulus Act of 2008,
257 the American Recovery and Reinvestment Act of 2009, the Small
258 Business Jobs Act of 2010, the Tax Relief, Unemployment
259 Insurance Reauthorization, and Job Creation Act of 2010, the
260 American Taxpayer Relief Act of 2012, the Tax Increase
261 Prevention Act of 2014, the Consolidated Appropriations Act,
262 2016, and the Tax Cuts and Jobs Act of 2017.
263 1. There shall be added to such taxable income an amount
264 equal to 100 percent of any amount deducted for federal income
265 tax purposes as bonus depreciation for the taxable year pursuant
266 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as

267 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
268 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.
269 111-312, s. 331 of Pub. L. No. 112-240, s. 125 of Pub. L. No.
270 113-295, s. 143 of Division Q of Pub. L. No. 114-113, and s.
271 13201 of Pub. L. No. 115-97, for property placed in service
272 after December 31, 2007, and before January 1, 2027. For the
273 taxable year and for each of the 6 subsequent taxable years,
274 there shall be subtracted from such taxable income an amount
275 equal to one-seventh of the amount by which taxable income was
276 increased pursuant to this subparagraph, notwithstanding any
277 sale or other disposition of the property that is the subject of
278 the adjustments and regardless of whether such property remains
279 in service in the hands of the taxpayer.
280 2. There shall be added to such taxable income an amount
281 equal to 100 percent of any amount in excess of $128,000
282 deducted for federal income tax purposes for the taxable year
283 pursuant to s. 179 of the Internal Revenue Code of 1986, as
284 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.
285 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.
286 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.
287 No. 113-295, for taxable years beginning after December 31,
288 2007, and before January 1, 2015. For the taxable year and for
289 each of the 6 subsequent taxable years, there shall be
290 subtracted from such taxable income one-seventh of the amount by
291 which taxable income was increased pursuant to this

292 subparagraph, notwithstanding any sale or other disposition of
293 the property that is the subject of the adjustments and
294 regardless of whether such property remains in service in the
295 hands of the taxpayer.
296 3. There shall be added to such taxable income an amount
297 equal to the amount of deferred income not included in such
298 taxable income pursuant to s. 108(i)(1) of the Internal Revenue
299 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There
300 shall be subtracted from such taxable income an amount equal to
301 the amount of deferred income included in such taxable income
302 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,
303 as amended by s. 1231 of Pub. L. No. 111-5.
304 4. Subtractions available under this paragraph may be
305 transferred to the surviving or acquiring entity following a
306 merger or acquisition and used in the same manner and with the
307 same limitations as specified by this paragraph.
308 5. The additions and subtractions specified in this
309 paragraph are intended to adjust taxable income for Florida tax
310 purposes, and, notwithstanding any other provision of this code,
311 such additions and subtractions shall be permitted to change a
312 taxpayer's net operating loss for Florida tax purposes.
313 (2) For purposes of this section, a taxpayer's taxable
314 income for the taxable year means taxable income as defined in
315 s. 63 of the Internal Revenue Code and properly reportable for
316 federal income tax purposes for the taxable year, but subject to

317 the limitations set forth in paragraph (1)(b) with respect to
318 the deductions provided by ss. 172 (relating to net operating
319 losses), 170(d)(2) (relating to excess charitable
320 contributions), 404(a)(1)(D) (relating to excess pension trust
321 contributions), 404(a)(3)(A) and (B) (to the extent relating to
322 excess stock bonus and profit-sharing trust contributions), and
323 1212 (relating to capital losses) of the Internal Revenue Code,
324 except that, subject to the same limitations, the term:
325 (a) "Taxable income," in the case of a life insurance
326 company subject to the tax imposed by s. 801 of the Internal
327 Revenue Code, means life insurance company taxable income;
328 however, for purposes of this code, the total of any amounts
329 subject to tax under s. 815(a)(2) of the Internal Revenue Code
330 pursuant to s. 801(c) of the Internal Revenue Code shall not
331 exceed, cumulatively, the total of any amounts determined under
332 s. 815(c)(2) of the Internal Revenue Code of 1954, as amended,
333 from January 1, 1972, to December 31, 1983;
334 (b) "Taxable income," in the case of an insurance company
335 subject to the tax imposed by s. 831(b) of the Internal Revenue
336 Code, means taxable investment income;
337 (c) "Taxable income," in the case of an insurance company
338 subject to the tax imposed by s. 831(a) of the Internal Revenue
339 Code, means insurance company taxable income;
340 (d) "Taxable income," in the case of a regulated
341 investment company subject to the tax imposed by s. 852 of the

342 Internal Revenue Code, means investment company taxable income;
343 (e) "Taxable income," in the case of a real estate
344 investment trust subject to the tax imposed by s. 857 of the
345 Internal Revenue Code, means the income subject to tax, computed
346 as provided in s. 857 of the Internal Revenue Code;
347 (f) "Taxable income," in the case of a corporation which
348 is a member of an affiliated group of corporations filing a
349 consolidated income tax return for the taxable year for federal
350 income tax purposes, means taxable income of such corporation
351 for federal income tax purposes as if such corporation had filed
352 a separate federal income tax return for the taxable year and
353 each preceding taxable year for which it was a member of an
354 affiliated group~~, unless a consolidated return for the taxpayer~~
355 ~~and others is required or elected under s. 220.131~~;
356 (g) "Taxable income," in the case of a cooperative
357 corporation or association, means the taxable income of such
358 organization determined in accordance with the provisions of ss.
359 1381-1388 of the Internal Revenue Code;
360 (h) "Taxable income," in the case of an organization which
361 is exempt from the federal income tax by reason of s. 501(a) of
362 the Internal Revenue Code, means its unrelated business taxable
363 income as determined under s. 512 of the Internal Revenue Code;
364 (i) "Taxable income," in the case of a corporation for
365 which there is in effect for the taxable year an election under
366 s. 1362(a) of the Internal Revenue Code, means the amounts

367 subject to tax under s. 1374 or s. 1375 of the Internal Revenue
368 Code for each taxable year;
369 (j) "Taxable income," in the case of a limited liability
370 company, other than a limited liability company classified as a
371 partnership for federal income tax purposes, as defined in and
372 organized pursuant to chapter 605 or qualified to do business in
373 this state as a foreign limited liability company or other than
374 a similar limited liability company classified as a partnership
375 for federal income tax purposes and created as an artificial
376 entity pursuant to the statutes of the United States or any
377 other state, territory, possession, or jurisdiction, if such
378 limited liability company or similar entity is taxable as a
379 corporation for federal income tax purposes, means taxable
380 income determined as if such limited liability company were
381 required to file or had filed a federal corporate income tax
382 return under the Internal Revenue Code;
383 (k) "Taxable income," in the case of a taxpayer liable for
384 the alternative minimum tax as defined in s. 55 of the Internal
385 Revenue Code, means the alternative minimum taxable income as
386 defined in s. 55(b)(2) of the Internal Revenue Code, less the
387 exemption amount computed under s. 55(d) of the Internal Revenue
388 Code. A taxpayer is not liable for the alternative minimum tax
389 unless the taxpayer's federal tax return, or related federal
390 consolidated tax return, if included in a consolidated return
391 for federal tax purposes, reflect a liability on the return

392 filed for the alternative minimum tax as defined in s. 55(b)(2)
393 of the Internal Revenue Code;
394 (l) "Taxable income," in the case of a taxpayer whose
395 taxable income is not otherwise defined in this subsection,
396 means the sum of amounts to which a tax rate specified in s. 11
397 of the Internal Revenue Code plus the amount to which a tax rate
398 specified in s. 1201(a)(2) of the Internal Revenue Code are
399 applied for federal income tax purposes.
400 Section 46. Section 220.131, Florida Statutes, is
401 repealed.
402 Section 47. Section 220.136, Florida Statutes, is created
403 to read:
404 220.136 Determination of the members of a water's edge
405 group.—
406 (1) A corporation having 50 percent or more of its
407 outstanding voting stock directly or indirectly owned or
408 controlled by a water's edge group is presumed to be a member of
409 the water's edge group. A corporation having less than 50
410 percent of its outstanding voting stock directly or indirectly
411 owned or controlled by a water's edge group is a member of the
412 water's edge group if the businesses activities of the
413 corporation show that the corporation is a member of the water's
414 edge group. All of the income of a corporation that is a member
415 of a water's edge group is presumed to be unitary. For purposes
416 of this subsection, the attribution rules of 26 U.S.C. s. 318

417 must be used to determine whether voting stock is indirectly
418 owned.
419 (2)(a) A corporation that conducts business outside the
420 United States is not a member of a water's edge group if 80
421 percent or more of the corporation's property and payroll, as
422 determined by the apportionment factors described in ss. 220.15
423 and 220.1363, may be assigned to locations outside of the United
424 States. However, such corporations that are incorporated in a
425 tax haven may be a member of a water's edge group pursuant to
426 subsection (1). This subsection does not exempt a corporation
427 that is not a member of a water's edge group from this chapter.
428 (b) As used in this subsection, the term "United States"
429 means the 50 states, the District of Columbia, and Puerto Rico.
430 (c) The apportionment factors described in ss. 220.1363
431 and 220.15 must be used to determine whether a special industry
432 corporation has engaged in a sufficient amount of activities
433 outside of the United States to exclude it from treatment as a
434 member of a water's edge group.
435 Section 48. Section 220.1363, Florida Statutes, is created
436 to read:
437 220.1363 Water's edge groups; special requirements.—
438 (1) For purposes of this section, the term "water's edge
439 reporting method" is a method to determine the taxable business
440 profits of a group of entities conducting a unitary business.
441 Under this method, the net income of the entities must be added

442 together, along with the additions and subtractions under s.
443 220.13 and apportioned to this state as a single taxpayer under
444 ss. 220.15 and 220.151. However, each special industry member
445 included in a water's edge group return, which would otherwise
446 be permitted to use a special method of apportionment under s.
447 220.151, shall convert its single-factor apportionment to a
448 three-factor apportionment of property, payroll, and sales. The
449 special industry member shall calculate the denominator of its
450 property, payroll, and sales factors in the same manner as those
451 denominators are calculated by members that are not special
452 industry members. The numerator of its sales, property, and
453 payroll factors is the product of the denominator of each factor
454 multiplied by the premiums or revenue-miles-factor ratio
455 otherwise applicable under s. 220.151.
456 (2) All members of a water's edge group must use the
457 water's edge reporting method, under which:
458 (a) Adjusted federal income, for purposes of s. 220.12,
459 means the sum of adjusted federal income of all members of the
460 water's edge group as determined for a concurrent taxable year.
461 (b) The numerators and denominators of the apportionment
462 factors must be calculated for all members of the water's edge
463 group combined.
464 (c) Intercompany sales transactions between members of the
465 water's edge group are not included in the numerator or
466 denominator of the sales factor under ss. 220.15 and 220.151,

467 regardless of whether indicia of a sale exist.
468 (d) For sales of intangibles, including accounts
469 receivable, notes, bonds, and stock, which are made to entities
470 outside the group, only the net proceeds are included in the
471 numerator and denominator of the sales factor.
472 (e) Sales that are not allocated or apportioned to any
473 taxing jurisdiction, otherwise known as "nowhere sales," may not
474 be included in the numerator or denominator of the sales factor.
475 (f) The income attributable to the Florida activities of a
476 corporation that is exempt from taxation under the Interstate
477 Income Act of 1959, Pub. L. No. 86-272, is excluded from the
478 apportionment factor numerators in the calculation of corporate
479 income tax, even if another member of the water's edge group has
480 nexus with this state and is subject to tax.
481
482 As used in this subsection, the term "sale" includes, but is not
483 limited to, loans, payments for the use of intangibles,
484 dividends, and management fees.
485 (3)(a) If a parent corporation is a member of the water's
486 edge group and has nexus with this state, a single water's edge
487 group return must be filed in the name and under the federal
488 employer identification number of the parent corporation. If the
489 water's edge group does not have a parent corporation, if the
490 parent corporation is not a member of the water's edge group, or
491 if the parent corporation does not have nexus with this state,

492 then the members of the water's edge group must choose a member
493 subject to the tax imposed by this chapter to file the return.
494 The members of the water's edge group may not choose another
495 member to file a corporate income tax return in subsequent years
496 unless the filing member does not maintain nexus with this state
497 or does not remain a member of the water's edge group. The
498 return must be signed by an authorized officer of the filing
499 member as the agent for the water's edge group.
500 (b) If members of a water's edge group have different
501 taxable years, the taxable year of a majority of the members of
502 the water's edge group is the taxable year of the water's edge
503 group. If the taxable years of a majority of the members do not
504 correspond, the taxable year of the member that files the return
505 for the water's edge group is the taxable year of the water's
506 edge group.
507 (c)1. A member of a water's edge group having a taxable
508 year that does not correspond to the taxable year of the water's
509 edge group shall determine its income for inclusion on the tax
510 return for the water's edge group. The member shall use:
511 a. The precise amount of taxable income received during
512 the months corresponding to the taxable year of the water's edge
513 group, if the precise amount can be readily determined from the
514 member's books and records.
515 b. The taxable income of the member converted to conform
516 to the taxable year of the water's edge group on the basis of

517 the number of months falling within the taxable year of the
518 water's edge group, such that, if the taxable year of the
519 water's edge group is a calendar year and a member operates on a
520 fiscal year ending on April 30, the income of the member must
521 include 8/12 of the income from the current taxable year and
522 4/12 of the income from the preceding taxable year. This method
523 to determine the income of a member may be used only if the
524 return can be timely filed after the end of the taxable year of
525 the water's edge group.
526 c. The taxable income of the member during its taxable
527 year that ends within the taxable year of the water's edge
528 group.
529 2. The method of determining the income of a member of a
530 water's edge group whose taxable year does not correspond to the
531 taxable year of the water's edge group may not change as long as
532 the member remains a member of the water's edge group. The
533 apportionment factors for the member must be applied to the
534 income of the member for the taxable year of the water's edge
535 group.
536 (4)(a) A water's edge group return must include a
537 computational schedule that:
538 1. Combines the federal income of all members of the
539 water's edge group;
540 2. Shows all intercompany eliminations;
541 3. Shows Florida additions and subtractions under s.

542 220.13; and
543 4. Shows the calculation of the combined apportionment
544 factors.
545 (b) In addition to its return, a water's edge group shall
546 also file a domestic disclosure spreadsheet. The spreadsheet
547 must fully disclose:
548 1. The income reported to each state;
549 2. The state tax liability;
550 3. The method used for apportioning or allocating income
551 to the various states; and
552 4. Other information required by department rule to
553 determine the proper amount of tax due to each state and to
554 identify the water's edge group.
555 (5) The department may adopt rules and forms to administer
556 this section. The Legislature intends to grant the department
557 extensive authority to adopt rules and forms describing and
558 defining principles for determining the existence of a water's
559 edge business, definitions of common control, methods of
560 reporting, and related forms, principles, and other definitions.
561 Section 49. Section 220.14, Florida Statutes, is amended
562 to read:
563 220.14 Exemption.—
564 (1) In computing a taxpayer's liability for tax under this
565 code, there shall be exempt from the tax $50,000 of net income
566 as defined in s. 220.12 or such lesser amount as will, without

567 increasing the taxpayer's federal income tax liability, provide
568 the state with an amount under this code which is equal to the
569 maximum federal income tax credit which may be available from
570 time to time under federal law.
571 (2) In the case of a taxable year for a period of less
572 than 12 months, the exemption allowed by this section must ~~shall~~
573 be prorated on the basis of the number of days in such year to
574 365 days, or, in a leap year, 366 days.
575 (3) Only one exemption shall be allowed to taxpayers
576 filing a water's edge group ~~consolidated~~ return under this code.
577 (4) Notwithstanding any other provision of this code, not
578 more than one exemption under this section may be allowed to the
579 Florida members of a controlled group of corporations, as
580 defined in s. 1563 of the Internal Revenue Code with respect to
581 taxable years ending on or after December 31, 1970, filing
582 separate returns under this code. The exemption described in
583 this section shall be divided equally among such Florida members
584 of the group~~,~~ unless all of such members consent, at such time
585 and in such manner as the department shall by regulation
586 prescribe, to an apportionment plan providing for an unequal
587 allocation of such exemption.
588 Section 50. Paragraph (c) of subsection (5) of section
589 220.15, Florida Statutes, is amended to read:
590 220.15 Apportionment of adjusted federal income.—
591 (5) The sales factor is a fraction the numerator of which

592 is the total sales of the taxpayer in this state during the
593 taxable year or period and the denominator of which is the total
594 sales of the taxpayer everywhere during the taxable year or
595 period.
596 (c) Sales of a financial organization, including, but not
597 limited to, banking and savings institutions, investment
598 companies, real estate investment trusts, and brokerage
599 companies, occur in this state if derived from:
600 1. Fees, commissions, or other compensation for financial
601 services rendered within this state;
602 2. Gross profits from trading in stocks, bonds, or other
603 securities managed within this state;
604 3. Interest received within this state, other than
605 interest from loans secured by mortgages, deeds of trust, or
606 other liens upon real or tangible personal property located
607 without this state, and dividends received within this state;
608 4. Interest charged to customers at places of business
609 maintained within this state for carrying debit balances of
610 margin accounts, without deduction of any costs incurred in
611 carrying such accounts;
612 5. Interest, fees, commissions, or other charges or gains
613 from loans secured by mortgages, deeds of trust, or other liens
614 upon real or tangible personal property located in this state or
615 from installment sale agreements originally executed by a
616 taxpayer or the taxpayer's agent to sell real or tangible

617 personal property located in this state;
618 6. Rents from real or tangible personal property located
619 in this state; or
620 7. Any other gross income, including other interest,
621 resulting from the operation as a financial organization within
622 this state.
623
624 ~~In computing the amounts under this paragraph, any amount~~
625 ~~received by a member of an affiliated group (determined under s.~~
626 ~~1504(a) of the Internal Revenue Code, but without reference to~~
627 ~~whether any such corporation is an "includable corporation"~~
628 ~~under s. 1504(b) of the Internal Revenue Code) from another~~
629 ~~member of such group shall be included only to the extent such~~
630 ~~amount exceeds expenses of the recipient directly related~~
631 ~~thereto.~~
632 Section 51. Paragraph (f) of subsection (1) of section
633 220.183, Florida Statutes, is amended to read:
634 220.183 Community contribution tax credit.—
635 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
636 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
637 SPENDING.—
638 ~~(f) A taxpayer who files a Florida consolidated return as~~
639 ~~a member of an affiliated group pursuant to s. 220.131(1) may be~~
640 ~~allowed the credit on a consolidated return basis.~~
641 Section 52. Paragraphs (b), (c), and (d) of subsection (2)

642 of section 220.1845, Florida Statutes, are amended to read:
643 220.1845 Contaminated site rehabilitation tax credit.—
644 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—
645 (b) A tax credit applicant, or multiple tax credit
646 applicants working jointly to clean up a single site, may not be
647 granted more than $500,000 per year in tax credits for each site
648 voluntarily rehabilitated. Multiple tax credit applicants shall
649 be granted tax credits in the same proportion as their
650 contribution to payment of cleanup costs. Subject to the same
651 conditions and limitations as provided in this section, a
652 municipality, county, or other tax credit applicant which
653 voluntarily rehabilitates a site may receive not more than
654 $500,000 per year in tax credits which it can subsequently
655 transfer subject to ~~the provisions in~~ paragraph (f) ~~(g)~~.
656 (c) If the credit granted under this section is not fully
657 used in any one year because of insufficient tax liability on
658 the part of the corporation, the unused amount may be carried
659 forward for up to 5 years. The carryover credit may be used in a
660 subsequent year if the tax imposed by this chapter for that year
661 exceeds the credit for which the corporation is eligible in that
662 year after applying the other credits and unused carryovers in
663 the order provided by s. 220.02(8). If during the 5-year period
664 the credit is transferred, in whole or in part, pursuant to
665 paragraph (f) ~~(g)~~, each transferee has 5 years after the date of
666 transfer to use its credit.

667 ~~(d) A taxpayer that files a consolidated return in this~~
668 ~~state as a member of an affiliated group under s. 220.131(1) may~~
669 ~~be allowed the credit on a consolidated return basis up to the~~
670 ~~amount of tax imposed upon the consolidated group.~~
671 Section 53. Subsection (2) of section 220.1875, Florida
672 Statutes, is amended to read:
673 220.1875 Credit for contributions to eligible nonprofit
674 scholarship-funding organizations.—
675 ~~(2) A taxpayer who files a Florida consolidated return as~~
676 ~~a member of an affiliated group pursuant to s. 220.131(1) may be~~
677 ~~allowed the credit on a consolidated return basis; however, the~~
678 ~~total credit taken by the affiliated group is subject to the~~
679 ~~limitation established under subsection (1).~~
680 Section 54. Paragraphs (a) and (c) of subsection (3) of
681 section 220.191, Florida Statutes, are amended to read:
682 220.191 Capital investment tax credit.—
683 (3)(a) Notwithstanding subsection (2), an annual credit
684 against the tax imposed by this chapter shall be granted to a
685 qualifying business which establishes a qualifying project
686 pursuant to subparagraph (1)(g)3., in an amount equal to the
687 lesser of $15 million or 5 percent of the eligible capital costs
688 made in connection with a qualifying project, for a period not
689 to exceed 20 years beginning with the commencement of operations
690 of the project. The tax credit shall be granted against the
691 corporate income tax liability of the qualifying business ~~and as~~

692 ~~further provided in paragraph (c)~~. The total tax credit provided
693 pursuant to this subsection shall be equal to no more than 100
694 percent of the eligible capital costs of the qualifying project.
695 (c) The credit granted under this subsection may be used
696 in whole or in part by the qualifying business ~~or any~~
697 ~~corporation that is either a member of that qualifying~~
698 ~~business's affiliated group of corporations, is a related entity~~
699 ~~taxable as a cooperative under subchapter T of the Internal~~
700 ~~Revenue Code, or, if the qualifying business is an entity~~
701 ~~taxable as a cooperative under subchapter T of the Internal~~
702 ~~Revenue Code, is related to the qualifying business. Any entity~~
703 ~~related to the qualifying business may continue to file as a~~
704 ~~member of a Florida nexus consolidated group pursuant to a prior~~
705 ~~election made under s. 220.131(1), Florida Statutes (1985), even~~
706 ~~if the parent of the group changes due to a direct or indirect~~
707 ~~acquisition of the former common parent of the group. Any credit~~
708 ~~can be used by any of the affiliated companies or related~~
709 ~~entities referenced in this paragraph to the same extent as it~~
710 ~~could have been used by the qualifying business. However, any~~
711 ~~such use shall not operate to increase the amount of the credit~~
712 ~~or extend the period within which the credit must be used~~.
713 Section 55. Subsection (2) of section 220.192, Florida
714 Statutes, is amended to read:
715 220.192 Renewable energy technologies investment tax
716 credit.—

717 (2) TAX CREDIT.—For tax years beginning on or after
718 January 1, 2013, a credit against the tax imposed by this
719 chapter shall be granted in an amount equal to the eligible
720 costs. Credits may be used in tax years beginning January 1,
721 2013, and ending December 31, 2016, after which the credit shall
722 expire. If the credit is not fully used in any one tax year
723 because of insufficient tax liability on the part of the
724 corporation, the unused amount may be carried forward and used
725 in tax years beginning January 1, 2013, and ending December 31,
726 2018, after which the credit carryover expires and may not be
727 used. ~~A taxpayer that files a consolidated return in this state~~
728 ~~as a member of an affiliated group under s. 220.131(1) may be~~
729 ~~allowed the credit on a consolidated return basis up to the~~
730 ~~amount of tax imposed upon the consolidated group.~~ Any eligible
731 cost for which a credit is claimed and which is deducted or
732 otherwise reduces federal taxable income shall be added back in
733 computing adjusted federal income under s. 220.13.
734 Section 56. Paragraphs (c) and (e) of subsection (3) of
735 section 220.193, Florida Statutes, are amended to read:
736 220.193 Florida renewable energy production credit.—
737 (3) An annual credit against the tax imposed by this
738 section shall be allowed to a taxpayer, based on the taxpayer's
739 production and sale of electricity from a new or expanded
740 Florida renewable energy facility. For a new facility, the
741 credit shall be based on the taxpayer's sale of the facility's

742 entire electrical production. For an expanded facility, the
743 credit shall be based on the increases in the facility's
744 electrical production that are achieved after May 1, 2012.
745 (c) If the amount of credits applied for each year exceeds
746 the amount authorized in paragraph (f) ~~(g)~~, the Department of
747 Agriculture and Consumer Services shall allocate credits to
748 qualified applicants based on the following priority:
749 1. An applicant who places a new facility in operation
750 after May 1, 2012, shall be allocated credits first, up to a
751 maximum of $250,000 each, with any remaining credits to be
752 granted pursuant to subparagraph 3., but if the claims for
753 credits under this subparagraph exceed the state fiscal year cap
754 in paragraph (f) ~~(g)~~, credits shall be allocated pursuant to
755 this subparagraph on a prorated basis based upon each
756 applicant's qualified production and sales as a percentage of
757 total production and sales for all applicants in this category
758 for the fiscal year.
759 2. An applicant who does not qualify under subparagraph 1.
760 but who claims a credit of $50,000 or less shall be allocated
761 credits next, but if the claims for credits under this
762 subparagraph, combined with credits allocated in subparagraph
763 1., exceed the state fiscal year cap in paragraph (f) ~~(g)~~,
764 credits shall be allocated pursuant to this subparagraph on a
765 prorated basis based upon each applicant's qualified production
766 and sales as a percentage of total qualified production and

767 sales for all applicants in this category for the fiscal year.
768 3. An applicant who does not qualify under subparagraph 1.
769 or subparagraph 2. and an applicant whose credits have not been
770 fully allocated under subparagraph 1. shall be allocated credits
771 next. If there is insufficient capacity within the amount
772 authorized for the state fiscal year in paragraph (f) ~~(g)~~, and
773 after allocations pursuant to subparagraphs 1. and 2., the
774 credits allocated under this subparagraph shall be prorated
775 based upon each applicant's unallocated claims for qualified
776 production and sales as a percentage of total unallocated claims
777 for qualified production and sales of all applicants in this
778 category, up to a maximum of $1 million per taxpayer per state
779 fiscal year. If, after application of this $1 million cap, there
780 is excess capacity under the state fiscal year cap in paragraph
781 (f) ~~(g)~~ in any state fiscal year, that remaining capacity shall
782 be used to allocate additional credits with priority given in
783 the order set forth in this subparagraph and without regard to
784 the $1 million per taxpayer cap.
785 ~~(e) A taxpayer that files a consolidated return in this~~
786 ~~state as a member of an affiliated group under s. 220.131(1) may~~
787 ~~be allowed the credit on a consolidated return basis up to the~~
788 ~~amount of tax imposed upon the consolidated group.~~
789 Section 57. Section 220.51, Florida Statutes, is amended
790 to read:
791 220.51 Adoption ~~Promulgation~~ of rules and regulations.—In

792 accordance with the Administrative Procedure Act, chapter 120,
793 the department is authorized to make, adopt ~~promulgate~~, and
794 enforce such reasonable rules and regulations, and to prescribe
795 such forms relating to the administration and enforcement of ~~the~~
796 ~~provisions of~~ this code, as it may deem appropriate, including:
797 (1) Rules for initial implementation of this code and for
798 taxpayers' transitional taxable years commencing before and
799 ending after January 1, 1972; and
800 (2) Rules or regulations to clarify whether certain
801 groups, organizations, or associations formed under the laws of
802 this state or any other state, country, or jurisdiction shall be
803 deemed "taxpayers" for the purposes of this code, in accordance
804 with the legislative declarations of intent in s. 220.02~~; and~~
805 ~~(3) Regulations relating to consolidated reporting for~~
806 ~~affiliated groups of corporations, in order to provide for an~~
807 ~~equitable and just administration of this code with respect to~~
808 ~~multicorporate taxpayers~~.
809 Section 58. Section 220.64, Florida Statutes, is amended
810 to read:
811 220.64 Other provisions applicable to franchise tax.—To
812 the extent that they are not manifestly incompatible with ~~the~~
813 ~~provisions of~~ this part, parts I, III, IV, V, VI, VIII, IX, and
814 X of this code and ss. 220.12, 220.13, 220.136, 220.1363,
815 220.15, and 220.16 apply to the franchise tax imposed by this
816 part. Under rules prescribed by the department ~~in s. 220.131~~, a

817 consolidated return may be filed by any affiliated group of
818 corporations composed of one or more banks or savings
819 associations, ~~its or~~ their Florida parent corporations
820 ~~corporation~~, and any nonbank or nonsavings subsidiaries of such
821 parent corporations ~~corporation~~.
822 Section 59. Paragraph (f) of subsection (4) and paragraph
823 (a) of subsection (5) of section 288.1254, Florida Statutes, are
824 amended to read:
825 288.1254 Entertainment industry financial incentive
826 program.—
827 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
828 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
829 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
830 ACQUISITIONS.—
831 ~~(f) *Consolidated returns.*—A certified production company~~
832 ~~that files a Florida consolidated return as a member of an~~
833 ~~affiliated group under s. 220.131(1) may be allowed the credit~~
834 ~~on a consolidated return basis up to the amount of the tax~~
835 ~~imposed upon the consolidated group under chapter 220.~~
836 (5) TRANSFER OF TAX CREDITS.—
837 (a) *Authorization.*—Upon application to the Office of Film
838 and Entertainment and approval by the department, a certified
839 production company, or a partner or member that has received a
840 distribution under paragraph (4)(f) ~~(4)(g)~~, may elect to
841 transfer, in whole or in part, any unused credit amount granted

842 under this section. An election to transfer any unused tax
843 credit amount under chapter 212 or chapter 220 must be made no
844 later than 5 years after the date the credit is awarded, after
845 which period the credit expires and may not be used. The
846 department shall notify the Department of Revenue of the
847 election and transfer.
848 Section 60. Subsections (9) and (10) of section 376.30781,
849 Florida Statutes, are amended to read:
850 376.30781 Tax credits for rehabilitation of drycleaning-
851 solvent-contaminated sites and brownfield sites in designated
852 brownfield areas; application process; rulemaking authority;
853 revocation authority.—
854 (9) On or before May 1, the Department of Environmental
855 Protection shall inform each tax credit applicant that is
856 subject to the January 31 annual application deadline of the
857 applicant's eligibility status and the amount of any tax credit
858 due. The department shall provide each eligible tax credit
859 applicant with a tax credit certificate that must be submitted
860 with its tax return to the Department of Revenue to claim the
861 tax credit or be transferred pursuant to s. 220.1845(2)(f) ~~s.~~
862 ~~220.1845(2)(g)~~. The May 1 deadline for annual site
863 rehabilitation tax credit certificate awards shall not apply to
864 any tax credit application for which the department has issued a
865 notice of deficiency pursuant to subsection (8). The department
866 shall respond within 90 days after receiving a response from the

867 tax credit applicant to such a notice of deficiency. Credits may
868 not result in the payment of refunds if total credits exceed the
869 amount of tax owed.
870 (10) For solid waste removal, new health care facility or
871 health care provider, and affordable housing tax credit
872 applications, the Department of Environmental Protection shall
873 inform the applicant of the department's determination within 90
874 days after the application is deemed complete. Each eligible tax
875 credit applicant shall be informed of the amount of its tax
876 credit and provided with a tax credit certificate that must be
877 submitted with its tax return to the Department of Revenue to
878 claim the tax credit or be transferred pursuant to s.
879 220.1845(2)(f) ~~s. 220.1845(2)(g)~~. Credits may not result in the
880 payment of refunds if total credits exceed the amount of tax
881 owed.
882 Section 61. Transitional rules.—
883 (1) For the first taxable year beginning on or after
884 January 1, 2021, a taxpayer that filed a Florida corporate
885 income tax return in the preceding taxable year and that is a
886 member of a water's edge group shall compute its income together
887 with all members of its water's edge group and file a combined
888 Florida corporate income tax return with all members of its
889 water's edge group.
890 (2) An affiliated group of corporations that filed a
891 Florida consolidated corporate income tax return pursuant to an

892 election provided in s. 220.131, Florida Statutes 2018, shall
893 cease filing a Florida consolidated return for taxable years
894 beginning on or after January 1, 2021, and shall file a combined
895 Florida corporate income tax return with all members of its
896 water's edge group.
897 (3) An affiliated group of corporations that filed a
898 Florida consolidated corporate income tax return pursuant to the
899 election in s. 220.131(1), Florida Statutes (1985), which
900 allowed the affiliated group to make an election within 90 days
901 after December 20, 1984, or upon filing the taxpayer's first
902 return after December 20, 1984, whichever was later, shall cease
903 filing a Florida consolidated corporate income tax return using
904 that method for taxable years beginning on or after January 1,
905 2021, and shall file a combined Florida corporate income tax
906 return with all members of its water's edge group.
907 (4) A taxpayer that is not a member of a water's edge
908 group remains subject to chapter 220, Florida Statutes, and
909 shall file a separate Florida corporate income tax return as
910 previously required.
911 (5) For taxable years beginning on or after January 1,
912 2021, a tax return for a member of a water's edge group must be
913 a combined Florida corporate income tax return that includes tax
914 information for all members of the water's edge group. The tax
915 return must be filed by a member that has a nexus with this
916 state.

917
918 ----------
919 **T I T L E A M E N D M E N T**
920 Remove line 150 and insert:
921 applicability; amending s. 220.03, F.S.; revising the
922 definition of the term "taxpayer"; providing
923 definitions; amending s. 220.13, F.S.; revising the
924 definition of the term "adjusted federal income" to
925 prohibit specified deductions, to limit certain
926 carryovers, and to require subtractions of certain
927 dividends paid and received within a water's edge
928 group for the purpose of determining subtractions from
929 taxable income; conforming provisions to changes made
930 by the act; repealing s. 220.131, F.S., relating to
931 the adjusted federal income of affiliated groups;
932 creating s. 220.136, F.S.; specifying circumstances
933 under which a corporation is presumed to be, deemed to
934 be, or deemed not to be a member of a water's edge
935 group; providing construction; defining the term
936 "United States"; creating s. 220.1363, F.S.; defining
937 the term "water's edge reporting method"; specifying
938 requirements for, limitations on, and prohibitions in
939 calculating and reporting income in a water's edge
940 group return; requiring all members of a water's edge
941 group to use the water's edge reporting method;

942 defining the term "sale"; specifying requirements for
943 designating the filing member and the taxable year of
944 the water's edge group; specifying income reporting
945 requirements for certain members of the water's edge
946 group; requiring that a water's edge group return
947 include a specified computational schedule and
948 domestic disclosure spreadsheet; authorizing the
949 Department of Revenue to adopt rules; providing
950 legislative intent regarding the adoption of rules;
951 amending s. 220.14, F.S.; revising the calculation for
952 prorating a certain corporate income tax exemption to
953 reflect leap years; conforming a provision to changes
954 made by the act; amending ss. 220.15, 220.183,
955 220.1845, 220.1875, 220.191, 220.192, 220.193, and
956 220.51, F.S.; conforming provisions to changes made by
957 the act; amending s. 220.64, F.S.; providing
958 applicability of water's edge group provisions to the
959 franchise tax; conforming provisions to changes made
960 by the act; amending ss. 288.1254 and 376.30781, F.S.;
961 conforming provisions to changes made by the act;
962 specifying, beginning on a specified date,
963 requirements for corporate income tax return filings
964 for certain taxpayers; providing sales tax exemptions
965 for

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB WMC 20-02 Corporate Income Tax
SPONSOR(S): Ways & Means Committee
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

Florida imposes a 5.5 percent tax on certain income of corporations doing business in Florida. Florida uses federal taxable income from federal tax returns as a beginning point to calculate corporate income tax owed to Florida. Florida updates its utilization of the Federal Internal Revenue Code (IRC) by adopting the code as it exists on January 1 in any given year. Adopting the code on an annual basis ensures the Florida tax code reflects any relevant changes to the IRC that were made during the prior year.

The bill adopts the IRC as of January 1, 2020, applicable retroactively to January 1, 2020.

The Revenue Estimating Conference estimates that adopting the IRC as it existed on January 1 will have a state revenue impact that is indeterminate with respect to both magnitude and direction.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida levies a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.[1] Florida utilizes the taxable income determined for federal income tax purposes as a starting point to determine the total amount of Florida corporate income tax due.[2] This means that a corporation paying taxes in Florida generally receives the same benefits from deductions allowed when determining taxable income for federal tax purposes as it does when determining taxable income for state taxation purposes, unless the state chooses not to adopt specific federal provisions.

Florida maintains its relationship with the federal Internal Revenue Code (IRC) by annually adopting the IRC as it exists on January 1.[3] By doing this, Florida adopts any changes related to determining federal taxable income that were made during the previous year.

On December 20, 2019, H.R.1865 - Further Consolidated Appropriations Act, 2020, became law. The act included a number of tax provisions, mainly extensions of previously enacted provisions, with potential effects on federal taxable income.

Effect of Proposed Changes

The bill updates the Florida corporate income tax code by adopting the Internal Revenue Code as in effect on January 1, 2020.

This bill is effective upon becoming law and applies retroactively to January 1, 2020.

B. SECTION DIRECTORY:

Section 1: Amends s. 220.03, F.S., to adopt the Internal Revenue Code in effect on January 1, 2020.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimates that adopting the IRC as it existed on January 1 will have a state revenue impact (General Revenue) that is indeterminate with respect to both magnitude and direction.

2. Expenditures:

None.

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[1] s. 220.11(2), F.S.
[2] s. 220.12, F.S.
[3] ss. 220.03(1)(n) and (2)(c), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By adopting recent changes to the Internal Revenue Code, Florida maintains the linkage between the federal and Florida tax codes which simplifies compliance for Florida corporate income taxpayers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to the adoption of the Internal
3 Revenue Code for purposes of the corporate income tax;
4 amending s. 220.03, F.S.; adopting the Internal
5 Revenue Code in effect on January 1, 2020; providing
6 for retroactive effect; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Paragraph (n) of subsection (1) and paragraph
11 (c) of subsection (2) of section 220.03, Florida Statutes, are
12 amended to read:
13 220.03 Definitions.—
14 (1) SPECIFIC TERMS.—When used in this code, and when not
15 otherwise distinctly expressed or manifestly incompatible with
16 the intent thereof, the following terms shall have the following
17 meanings:
18 (n) "Internal Revenue Code" means the United States
19 Internal Revenue Code of 1986, as amended and in effect on
20 January 1, 2020 ~~2019~~, except as provided in subsection (3).
21 (2) DEFINITIONAL RULES.—When used in this code and neither
22 otherwise distinctly expressed nor manifestly incompatible with
23 the intent thereof:
24 (c) Any term used in this code has the same meaning as
25 when used in a comparable context in the Internal Revenue Code

26 and other statutes of the United States relating to federal
27 income taxes, as such code and statutes are in effect on January
28 1, 2020 ~~2019~~. However, if subsection (3) is implemented, the
29 meaning of a term shall be taken at the time the term is applied
30 under this code.
31 Section 2. This act shall take effect upon becoming a law
32 and operates retroactively to January 1, 2020.

HB 429

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 429 Sales Tax Absorption
SPONSOR(S): Valdés
TIED BILLS: **IDEN./SIM. BILLS:** SB 508

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee		Berg	Langston
2) Business & Professions Subcommittee			
3) Appropriations Committee			

SUMMARY ANALYSIS

HB 429 allows businesses to advertise that they will pay or refund some or all of the sales tax due on behalf of their customers. A business that pays its customers' tax must provide an invoice or similar document that (1) states that the business will pay the tax and (2) separately states the amount of tax due on the sale.

Florida businesses are currently prohibited from absorbing, paying, or refunding their customers' tax, and a business that advertises or absorbs the tax is subject to penalties ranging from a second-degree misdemeanor for a first offense, to a first-degree misdemeanor for any subsequent offense.

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts and local government revenues in Fiscal Year 2020-2021 and each year thereafter by an indeterminate amount.

The bill takes effect July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property, admissions,[1] transient rentals,[2] rental of commercial real estate,[3] and a limited number of services. Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 270 exemptions, exclusions, deductions, and credits from the sales and use tax.[4] Sales tax receipts accounted for 79 percent of the state's General Revenue in Fiscal Year 2019-2020.[5]

Generally, sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.[6] In limited circumstances where the Department has determined that it is impracticable for the dealer to separately state the tax on a charge ticket, dealers in specified industries have the option to calculate tax using divisors, instead of adding the tax to the selling price.[7] For example, dealers who sell alcoholic beverages have the option to calculate sales tax based on their total receipts (the calculation will vary based on whether or not the business posted notice that the sales tax was included).[8] This allows the dealers to charge a flat dollar amount for beverages, rather than collecting change on the transactions. Similarly, concessionaires at arenas, auditoriums, or other similar places of business may charge an even dollar amount and then calculate the amount of tax due using a divisor computed by the Department of Revenue.[9] These options are limited to industries where the Department has established divisors by rule, and in these cases the tax is still paid by the customer, not the dealer.

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [ch. 212, F.S.], and on communications services as defined in ch. 202, F.S."[10] The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered into. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 to 1.5 percent.[11]

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[1] Section 212.04, F.S.
[2] Section 212.03, F.S.
[3] Section 212.031, F.S.
[4] Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook,* 166-171 (2020), *available at* http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf (last visited February 13, 2020).
[5] Office of Economic and Demographic Research, Florida Legislature, *Florida Tax Handbook,* Sources of General Revenue, 16 (2020), *available at* http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf (last visited February 13, 2020).
[6] Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities, available at* http://floridarevenue.com/taxes/taxesfees/Pages/sales_tax.aspx (last visited April 15, 2019).
[7] Section 212.07(2), F.S.
[8] See Rule 12A-1.057, F.A.C., for examples.
[9] See Rule 12A-1.080, F.A.C.
[10] Section 212.054, F.S.
[11] Office of Economic and Demographic Research, Florida Legislature, *Florida Tax Handbook,* 2019 Local Discretionary Sales Surtax Rates in Florida's Counties, 231-232 (2020), *available at* http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf (last visited February 13, 2020).

Sales Tax Absorption

Section 212.07(4), F.S., prohibits dealers from advertising, directly or indirectly, that they will absorb, pay, or refund the purchaser all or any part of the sales tax due with the sale of their property or services. A person who violates this provision, whether by advertising or refunding, is guilty of a misdemeanor of the second degree.[12] A subsequent offense constitutes a misdemeanor of the first degree.[13]

Several states, including Arizona,[14] California,[15] Kentucky,[16] and have similar laws that prohibit dealers from absorbing or refunding taxes to a purchaser.[17] However, a growing number of states permit tax absorption, including Wisconsin,[18] Pennsylvania,[19] and Georgia.[20]

Businesses cite various reasons for seeking to absorb sales tax, ranging from quickly moving customers through their lines[21] to preventing confusion during state sales tax holidays when certain items are exempt from sales tax but others are not.[22]

Proposed Changes

The bill amends s. 212.07(4), F.S., to remove the prohibition on a dealer advertising or holding out that the dealer will absorb sales tax or refund a purchaser of the payment of sales tax. The bill allows a dealer to advertise that the dealer will absorb applicable sales tax, or refund the sales tax for the purchaser, subject to the following conditions:

- First, the dealer must expressly state on any charge ticket, sales slip, invoice, or other tangible evidence of sale provided to the purchaser that the dealer will pay the tax imposed in ch. 212, F.S. The dealer must not imply or state that the sale is exempt from taxes imposed in ch. 212, F.S.; and
- Second, the dealer must provide the amount of tax that was due on the charge ticket, sales slip, invoice, or other tangible evidence of sale given to the purchaser.

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[12] Section 775.082(4)(b), F.S., "For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days" and s. 775.083(1)(e), F.S., "$500, when the conviction is of a misdemeanor of the second degree..."

[13] Section 775.082(4)(a), F.S., "For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year" and s. 755.083(1)(d), F.S., "$1,000, when the conviction is of a misdemeanor of the first degree."

[14] AZ Rev. Stat. § 42-5165, *available at* https://www.azleg.gov/viewdocument/?docName=http%3A%2F%2Fwww.azleg.gov%2Fars%2F42%2F05165.htm (last visited February 13, 2020).

[15] CA Rev. & Tax Code § 6205 (2020), *available at* https://www.cdtfa.ca.gov/lawguides/vol1/sutl/6205.html (last visited February 13, 2020).

[16] KY Rev. Stat. §139.220 (2011), *available at* https://law.justia.com/codes/kentucky/2011/139-00/139-220 (last visited February 13, 2020).

[17] Gail Cole, *Absorbing Sales Tax* (Jul. 22, 2019), https://www.avalara.com/us/en/blog/2015/11/absorbing-sales-tax-wacky-tax-wednesday.html (last visited February 13, 2020).

[18] WI Dep't. of Revenue, *Sales and Use Tax Report* at 2 (Jul. 2011), *available at* https://www.revenue.wi.gov/SalesUseTaxReport/11-2.pdf (last visited February 13, 2020).

[19] PA Act 2019-13 §7 (eff. Jul. 1, 2019). *See also*, Pa. Dep't. of Revenue, *State Tax Summary* (Jul. 2019), *available at* https://www.revenue.pa.gov/GeneralTaxInformation/TaxLawPoliciesBulletinsNotices/TaxSummaries/Documents/2019_tax_summary.pdf (last visited February 13, 2020).

[20] GA Code. §48-8-36 (2015), *available at* https://law.justia.com/codes/georgia/2015/title-48/chapter-8/article-1/part-2/section-48-8-36/ (last visited February 13, 2020).

[21] *MJR Group, LLC v. Mich. Dep't. of Treasury*, No. 329119, 2016 WL 7611479 (Mich. Ct. App. Dec. 29, 2016), *available at* https://law.justia.com/cases/michigan/court-of-appeals-unpublished/2016/329119.html(last visited February 13, 2020).

[22] Slim Smith, *Statewide 'Sales Tax Holiday' set for July 31-Aug. 1* (Jul. 22, 2015), https://www.washingtontimes.com/news/2015/jul/22/statewide-sales-tax-holiday-set-for-july-31-aug-1/ (last visited February 13, 2020).

If a dealer violates this provision, they are guilty of a misdemeanor of the second degree. A subsequent offense constitutes a misdemeanor of the first degree.

The bill also amends s. 212.15, F.S., to expand the criminal offense of failure to remit collected taxes to the department to include taxes absorbed by the dealer. Depending on the amount of revenue stolen, and whether the dealer has prior offenses, he or she is subject to penalties ranging from a second-degree misdemeanor to a first-degree felony.[23]

The bill has an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1. Amends s. 212.07(4), F.S., to allow dealers to absorb sales tax if certain conditions are met.

Section 2. Amends 212.15, F.S., to provide criminal penalties for failure to remit absorbed taxes.

Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts in Fiscal Year 2020-2021 and each year thereafter by an indeterminate amount.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Local government revenues are estimated to decrease by an indeterminate amount in Fiscal Year 2020-2021 and each year thereafter.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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23 If a dealer fails to remit absorbed taxes totaling less than $300, the offense is a misdemeanor in the second degree. If the total amount of stolen revenue is $300 or more but less than $20,000, the offense is a felony of the third degree. If the total amount of stolen revenue is $20,000 or greater but less than $100,000, the offense is a felony of the second degree. If the amount of stolen revenue is $100,000 or greater, the offense is a felony of the first degree.

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:

The Department of Revenue has general rulemaking authority to create rules governing the taxes it administers.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to sales tax absorption; amending s.
3 212.07, F.S.; authorizing dealers, subject to
4 specified conditions, to advertise or hold out to the
5 public that they will absorb all or part of the sales
6 and use tax on taxable transactions, or refund any
7 part thereof to the purchaser; revising a criminal
8 penalty; conforming provisions to changes made by the
9 act; amending s. 212.15, F.S.; providing that certain
10 persons who unlawfully fail to remit absorbed sales
11 taxes commit theft of state funds; providing an
12 effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Subsections (4) and (8) of section 212.07,
17 Florida Statutes, are amended, and subsection (2) of that
18 section is republished, to read:
19 212.07 Sales, storage, use tax; tax added to purchase
20 price; tax absorption ~~dealer not to absorb~~; liability of
21 purchasers who cannot prove payment of the tax; penalties;
22 general exemptions.--
23 (2) A dealer shall, as far as practicable, add the amount
24 of the tax imposed under this chapter to the sale price, and the
25 amount of the tax shall be separately stated as Florida tax on

26 any charge ticket, sales slip, invoice, or other tangible
27 evidence of sale. Such tax shall constitute a part of such
28 price, charge, or proof of sale which shall be a debt from the
29 purchaser or consumer to the dealer, until paid, and shall be
30 recoverable at law in the same manner as other debts. Where it
31 is impracticable, due to the nature of the business practices
32 within an industry, to separately state Florida tax on any
33 charge ticket, sales slip, invoice, or other tangible evidence
34 of sale, the department may establish an effective tax rate for
35 such industry. The department may also amend this effective tax
36 rate as the industry's pricing or practices change. Except as
37 otherwise specifically provided, any dealer who neglects, fails,
38 or refuses to collect the tax herein provided upon any, every,
39 and all retail sales made by the dealer or the dealer's agents
40 or employees of tangible personal property or services which are
41 subject to the tax imposed by this chapter shall be liable for
42 and pay the tax himself or herself.
43 (4)(a) A dealer engaged in any business taxable under this
44 chapter may not advertise or hold out to the public, in any
45 manner, directly or indirectly, that ~~he or she will absorb all~~
46 ~~or any part of the tax, or that he or she will relieve the~~
47 ~~purchaser of the payment of all or any part of the tax, or that~~
48 the tax will not be added to the selling price of the property
49 or services sold or released. However, such dealer may advertise
50 or hold out to the public ~~or, when added,~~ that he or she will

51 absorb all or any part of such tax or that ~~it or~~ any part
52 thereof will be refunded to the purchaser subject to both of the
53 following conditions:
54 1. In so advertising or holding out to the public, the
55 dealer shall expressly state on any charge ticket, sales slip,
56 invoice, or other tangible evidence of sale given to the
57 purchaser that such dealer will pay the tax imposed by this
58 chapter to the state. The dealer may not indicate or imply that
59 the transaction is exempt or excluded from the tax imposed by
60 this chapter.
61 2. A charge ticket, sales slip, invoice, or other tangible
62 evidence of sale given to the purchaser must separately state
63 the amount of such tax in accordance with subsection (2) ~~either~~
64 ~~directly or indirectly by any method whatsoever~~.
65 (b) A person who violates this subsection commits
66 ~~provision with respect to advertising or refund is guilty of~~ a
67 misdemeanor of the second degree, punishable as provided in s.
68 775.082 or s. 775.083. A second or subsequent offense
69 constitutes a misdemeanor of the first degree, punishable as
70 provided in s. 775.082 or s. 775.083.
71 (8) Any person who has purchased at retail, used,
72 consumed, distributed, or stored for use or consumption in this
73 state tangible personal property, admissions, communication or
74 other services taxable under this chapter, or leased tangible
75 personal property, or who has leased, occupied, or used or was

76 entitled to use any real property, space or spaces in parking
77 lots or garages for motor vehicles, docking or storage space or
78 spaces for boats in boat docks or marinas, and cannot prove that
79 the tax levied by this chapter has been paid to his or her
80 vendor, lessor, or other person, or was absorbed by a dealer
81 pursuant to subsection (4), is directly liable to the state for
82 any tax, interest, or penalty due on any such taxable
83 transactions.
84 Section 2. Subsection (2) of section 212.15, Florida
85 Statutes, is amended to read:
86 212.15 Taxes declared state funds; penalties for failure
87 to remit taxes; due and delinquent dates; judicial review.—
88 (2) Any person who, with intent to unlawfully deprive or
89 defraud the state of its moneys or the use or benefit thereof,
90 fails to remit taxes collected or absorbed under this chapter
91 commits theft of state funds, punishable as follows:
92 (a) If the total amount of stolen revenue is less than
93 $1,000, the offense is a misdemeanor of the second degree,
94 punishable as provided in s. 775.082 or s. 775.083. Upon a
95 second conviction, the offender commits a misdemeanor of the
96 first degree, punishable as provided in s. 775.082 or s.
97 775.083. Upon a third or subsequent conviction, the offender
98 commits a felony of the third degree, punishable as provided in
99 s. 775.082, s. 775.083, or s. 775.084.
100 (b) If the total amount of stolen revenue is $1,000 or

101 more, but less than $20,000, the offense is a felony of the
102 third degree, punishable as provided in s. 775.082, s. 775.083,
103 or s. 775.084.
104 (c) If the total amount of stolen revenue is $20,000 or
105 more, but less than $100,000, the offense is a felony of the
106 second degree, punishable as provided in s. 775.082, s. 775.083,
107 or s. 775.084.
108 (d) If the total amount of stolen revenue is $100,000 or
109 more, the offense is a felony of the first degree, punishable as
110 provided in s. 775.082, s. 775.083, or s. 775.084.
111 Section 3. This act shall take effect July 1, 2020.

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Valdés offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Section 1. Subsections (4) and (8) of section 212.07,
7 Florida Statutes, are amended, and subsection (2) of that
8 section is republished, to read:
9 212.07 Sales, storage, use tax; tax added to purchase
10 price; ~~dealer not to absorb;~~ liability of purchasers who cannot
11 prove payment of the tax; penalties; general exemptions.—
12 (2) A dealer shall, as far as practicable, add the amount
13 of the tax imposed under this chapter to the sale price, and the
14 amount of the tax shall be separately stated as Florida tax on
15 any charge ticket, sales slip, invoice, or other tangible
16 evidence of sale. Such tax shall constitute a part of such

17 price, charge, or proof of sale which shall be a debt from the
18 purchaser or consumer to the dealer, until paid, and shall be
19 recoverable at law in the same manner as other debts. Where it
20 is impracticable, due to the nature of the business practices
21 within an industry, to separately state Florida tax on any
22 charge ticket, sales slip, invoice, or other tangible evidence
23 of sale, the department may establish an effective tax rate for
24 such industry. The department may also amend this effective tax
25 rate as the industry's pricing or practices change. Except as
26 otherwise specifically provided, any dealer who neglects, fails,
27 or refuses to collect the tax herein provided upon any, every,
28 and all retail sales made by the dealer or the dealer's agents
29 or employees of tangible personal property or services which are
30 subject to the tax imposed by this chapter shall be liable for
31 and pay the tax himself or herself.
32 (4)(a) Except as provided in paragraph (b), a dealer
33 engaged in any business taxable under this chapter may not
34 advertise or hold out to the public, in any manner, directly or
35 indirectly, that he or she will pay ~~absorb~~ all or any part of
36 the tax, or that he or she will relieve the purchaser of the
37 payment of all or any part of the tax, or that the tax will not
38 be added to the selling price of the property or services sold
39 or released or, when added, that it or any part thereof will be
40 refunded either directly or indirectly by any method whatsoever.

41 (b) Notwithstanding any provision of this chapter to the
42 contrary, a dealer may advertise or hold out to the public that
43 he or she will pay all or any part of the tax on behalf of the
44 purchaser, subject to both of the following conditions:
45 1. The dealer must expressly state on any charge ticket,
46 sales slip, invoice, or other tangible evidence of sale given to
47 the purchaser that the dealer will pay the tax imposed by this
48 chapter to the state. The dealer may not indicate or imply that
49 the transaction is exempt or excluded from the tax imposed by
50 this chapter.
51 2. A charge ticket, sales slip, invoice, or other tangible
52 evidence of the sale given to the purchaser must separately
53 state the sale price and the amount of the tax in accordance
54 with subsection (2).
55 (c) A person who violates this subsection commits
56 ~~provision with respect to advertising or refund is guilty of~~ a
57 misdemeanor of the second degree, punishable as provided in s.
58 775.082 or s. 775.083. A second or subsequent offense
59 constitutes a misdemeanor of the first degree, punishable as
60 provided in s. 775.082 or s. 775.083.
61 (8) Any person who has purchased at retail, used,
62 consumed, distributed, or stored for use or consumption in this
63 state tangible personal property, admissions, communication or
64 other services taxable under this chapter, or leased tangible
65 personal property, or who has leased, occupied, or used or was

66 entitled to use any real property, space or spaces in parking
67 lots or garages for motor vehicles, docking or storage space or
68 spaces for boats in boat docks or marinas, and cannot prove that
69 the tax levied by this chapter has been paid to his or her
70 vendor, lessor, or other person or was paid on behalf of the
71 purchaser by a dealer pursuant to subsection (4) is directly
72 liable to the state for any tax, interest, or penalty due on any
73 such taxable transactions.
74 Section 2. Subsection (2) of section 212.15, Florida
75 Statutes, is amended to read:
76 212.15 Taxes declared state funds; penalties for failure
77 to remit taxes; due and delinquent dates; judicial review.—
78 (2) Any person who, with intent to unlawfully deprive or
79 defraud the state of its moneys or the use or benefit thereof,
80 fails to remit taxes collected or paid on behalf of a purchaser
81 under this chapter commits theft of state funds, punishable as
82 follows:
83 (a) If the total amount of stolen revenue is less than
84 $1,000, the offense is a misdemeanor of the second degree,
85 punishable as provided in s. 775.082 or s. 775.083. Upon a
86 second conviction, the offender commits a misdemeanor of the
87 first degree, punishable as provided in s. 775.082 or s.
88 775.083. Upon a third or subsequent conviction, the offender
89 commits a felony of the third degree, punishable as provided in
90 s. 775.082, s. 775.083, or s. 775.084.

91 (b) If the total amount of stolen revenue is $1,000 or
92 more, but less than $20,000, the offense is a felony of the
93 third degree, punishable as provided in s. 775.082, s. 775.083,
94 or s. 775.084.
95 (c) If the total amount of stolen revenue is $20,000 or
96 more, but less than $100,000, the offense is a felony of the
97 second degree, punishable as provided in s. 775.082, s. 775.083,
98 or s. 775.084.
99 (d) If the total amount of stolen revenue is $100,000 or
100 more, the offense is a felony of the first degree, punishable as
101 provided in s. 775.082, s. 775.083, or s. 775.084.
102 Section 3. This act shall take effect July 1, 2020.
103
104
105 ----------
106 **T I T L E A M E N D M E N T**
107 Remove everything before the enacting clause and insert:
108 A bill to be entitled
109 An act relating to sales tax absorption; amending s.
110 212.07, F.S.; authorizing dealers, subject to certain
111 conditions, to advertise or hold out to the public
112 that they will pay sales tax on behalf of the
113 purchaser; conforming a provision to changes made by
114 the act; amending s. 212.15, F.S.; conforming a

115 provision to changes made by the act; providing an
116 effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1209 Dissolution of Municipalities
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee, Fischer
TIED BILLS: **IDEN./SIM. BILLS:** SB 1522

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N, As CS	Darden	Miller
2) Ways & Means Committee		Curry KC	Langston
3) State Affairs Committee			

SUMMARY ANALYSIS

A municipality may be dissolved subject to a special act of the Legislature or an ordinance passed by the governing body of the municipality approved by the voters at a referendum.

The bill would require any municipality that meets one or more specified criteria to hold a referendum on municipal dissolution. Those criteria include:

- The municipality has been in a state of financial emergency for two or more years.
- The municipality has failed to comply with the terms of any signed agreement with the Governor's office as part of a financial emergency where a financial emergency board has been established.
- The municipality has submitted its annual financial report required by s. 218.32, F.S., and its annual financial audit report required by s. 218.39, F.S., more than three months late for two or more consecutive years.
- A grand jury or Auditor General audit report was issued within the past three years that contained a significant number of findings and the municipality failed to resolve five or more of those findings within 12 twelve months from the issuance of the report.

If any of these criteria are met, the governing body of the municipality (or the governing body of the county in which the municipality is located, if the governing body of the municipality fails to act) has 30 days to set the date of a referendum to dissolve the municipality. The referendum must be held at the next regularly scheduled general election. The municipality is required to provide notice at least once each week for two consecutive weeks prior to the election in a newspaper of general circulation in the municipality.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Municipal Dissolution

The charter of a municipality may be revoked and the municipality dissolved subject to a special act of the Legislature or an ordinance passed by the governing body of the municipality approved by the voters at a referendum.[1] If a referendum is required for dissolution, the governing body of the municipality sets the date of the election.[2] The referendum may be held during the next regularly scheduled election or during an earlier special election (but no sooner than thirty days after the passage of the ordinance). If the governing body of the municipality does not set the date for the referendum within thirty days of passing the ordinance, the governing body of the county or counties in which the municipality is located may set the date for the referendum. Notice of the referendum election must be published at least weekly for two consecutive weeks in a newspaper of general circulation in the municipality prior the election.

A municipality may only be dissolved if:[3]

- The municipality to be dissolved is not "substantially surrounded" by other municipalities;
- The county or another municipality must be demonstrably able to provide necessary services in the area of the former municipality; and
- An equitable arrangement has been made concerning any bonded indebtedness and vested rights of employees of the municipality to be dissolved.

Municipal Financial Reporting

Each municipality is required to submit an annual financial report to the Department of Financial Services (DFS).[4] The chair of the governing body of the municipality, as well as the chief financial officer, must sign the report. Component units of the municipality, as defined by generally accepted accounting principles, are required to provide the municipality with the financial information necessary to complete the report within a reasonable time period.[5]

A municipality's annual financial report must be submitted to DFS:

- Within 45 days after the completion of the audit report, but no later than nine months after the end of the fiscal year (for a municipality that is required to provide an audit under s. 218.39(1), F.S.);[6] or
- No later than nine months after the end of the fiscal year (for a municipality that is not required to provide for an audit under s. 218.39(1), F.S.)[7]

If a municipality fails to file its annual financial report within the required period, DFS is required to notify the Legislative Auditing Committee (JLAC).[8]

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[1] S. 165.051(1), F.S. Under its constitutional home rule charter, only Miami-Dade County may abolish municipalities within the county and the Legislature may not do so by special act. *See* art. VIII, s. 6(e), Fla. Const., incorporating by reference art. VIII, s. 11, Fla. Const. (1885).
[2] S. 165.051(2), F.S.
[3] S. 165.061(3), F.S.
[4] S. 218.32(1)(a), F.S.
[5] S. 218.32(1)(b), F.S.
[6] S. 218.32(1)(d), F.S.
[7] S. 218.32(1)(e), F.S.
[8] S. 218.32(1)(f), F.S.

DFS must notify the President of the Senate and the Speaker of the House of Representatives if any municipality does not report any financial activity for four consecutive fiscal years. The notification must include any special law which authorized the incorporation of the municipality and is sufficient to initiate statutory dissolution procedures.[9]

Each municipality with revenues or the total of expenditures and expenses in excess of $250,000, as reported on the fund financial statements, must complete an annual financial audit of its accounts and records, conducted by an independent certified public accountant, within nine months after the end of its fiscal year (unless the municipality has been notified by the first day of the fiscal year that the Auditor General will be performing a financial audit for that year).[10]

The auditor, upon completion of the audit, must discuss all comments that will be included in the audit report with the chair of the governing body of the municipality or the chair's designee.[11] If the officer is not available to discuss the auditor's comments, their discussion is presumed when the comments are delivered in writing to the officer's office. The auditor must notify each member of the governing body of the municipality when the report shows:[12]

- Deteriorating financial conditions exist that may cause a condition described in s. 218.503(1), F.S., to occur if actions are not taken to address such conditions; or
- A fund balance deficit in total or a deficit for that portion of a fund balance not classified as restricted, committed, or nonspendable, or a total or unrestricted net assets deficit, as reported on the fund financial statements of entities required to report under governmental financial reporting standards or on the basic financial statements of entities required to report under not-for-profit financial reporting standards, for which sufficient resources of the municipality, as reported on the fund financial statements, are not available to cover the deficit.

The municipal officer must file a written statement of explanation or rebuttal concerning the auditor's findings, including corrective action to be taken, with the governing body of the municipality within 30 days of the delivery of the auditor's findings.[13]

All audit reports must be conducted in accordance with rules adopted by the Auditor General and submitted within 45 days after the delivery of the audit report to the governing body of the audited municipality, but no later than 9 months after the end of the municipality's fiscal year.[14] The report must include a written statement describing corrective actions to be taken in response to each of the auditor's recommendations included in the audit report.

The Auditor General must notify JLAC of any audit report that indicates an audited municipality has failed to take full corrective action in response to a recommendation that was included in the two preceding financial audit reports.[15] JLAC may direct the governing body of the municipality to provide a written statement explain why full corrective action has not been taken or, if the governing body intends to take full corrective action, describing the timeline and nature of the corrective action. If JLAC determines the written statement is insufficient, the committee may require the chair of the governing body of the municipality or the chair's designee to appear before the committee. If the audited entity is determined to have failed to take full corrective action for which there is no reasonable justification or

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[9] S. 218.32(3)(a), F.S. *See* s. 165.051(1)(a), F.S.
[10] S. 218.39(1), F.S. Section 218.39(1)(g), F.S., provides that a municipality with revenues or the total of expenditures and expenses between $100,000 and $250,000, as reported on the fund financial statements, must conduct a financial audit if it has not been subject to a financial audit pursuant to this subsection within the two preceding fiscal years.
[11] S. 218.39(5), F.S.
[12] S. 218.39(5)(a)-(b), F.S.
[13] S. 218.39(6), F.S.
[14] S. 218.39(7), F.S.
[15] S. 218.39(8), F.S.

has failed to comply with JLAC requests, JLAC may initiate proceeding in accordance with s. 11.40(2), F.S.[16]

Financial Emergency

A municipality is subject to review and oversight by the Governor if the municipality, due to lack of funds, fails to:[17]

- Pay short-term loans or long-term debt payments in the fiscal year in which they are due;
- Pay uncontested claims from creditors within 90 days after the claim is presented;
- Make a timely transfer of tax withholding on employee salaries;
- Make a timely transfer of employer and employee contributions for Social Security or any pension, retirement of benefit plan of an employee; or
- Pay the wages and salaries owed to current employees or retirement benefits owed to former employees.

If any of these conditions occur or will occur within the next 30 days if no action is taken to assist the municipality, the municipality is required to inform the Governor and JLAC.[18] Upon receiving the notice, the Governor (or a designee) contacts the municipality to determine what actions have been taken to resolve or prevent the condition.[19] The requested information must be provided within 45 days. If a municipality fails to comply, the Governor must notify JLAC which may take action pursuant to s. 11.40(2), F.S.

If the Governor determines state assistance is necessary to resolve or prevent the conditions, the municipality is considered to be in a state of financial emergency.[20] The Governor is authorized to implement measures to resolve the financial emergency, including (but not limited to):[21]

- Requiring gubernatorial approval of the municipality's budget;
- Authorizing a state loan to the municipality and providing for repayment;
- Prohibiting the municipality from issuing bonds, notes, certificates of indebtedness, or any other form of debt until such time as it is no longer subject to this section;
- Making inspections and reviews of records, information, reports, and assets of the municipality;
- Consulting with municipal officials and auditors and appropriate state officials concerning the steps necessary to the bring the books of account, accounting systems, financial procedures, and reports into compliance with state requirements; and
- Providing technical assistance.

The Governor may also establish a financial emergency board to oversee the activities of the municipality.[22] The board is appointed by the Governor, who also selects the board's chair. The board must adopt rules for conducting business and is empowered to:[23]

- Review the records, reports, and assets of the municipality;
- Consult with municipal officials and auditors and appropriate state officials concerning the steps necessary to the bring the books of account, accounting systems, financial procedures, and reports into compliance with state requirements;
- Review the operations, management, efficiency, productivity, and financing of functions and operations of the municipality; and

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[16] Pursuant to s. 11.40(2)(a), F.S., JLAC may conduct a hearing to determine if a county, municipality, or school district should be subject to further state action, including withholding distribution of certain state funds.
[17] S. 218.503(1), F.S.
[18] S. 218.503(2), F.S.
[19] S. 218.503(3), F.S.
[20] *Id.*
[21] S. 218.503(3)(a)-(f), F.S.
[22] S. 218.503(3)(g)1., F.S.
[23] S. 218.503(3)(g)1.a.-d., F.S.

- Consult with other governmental entities for the consolidation of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

Any recommendations and reports made by the board must be submitted to the Governor for appropriate action.[24]

The Governor may also require the municipality, in consultation with the appropriate state officials, to approve a plan prescribing actions for the municipality to exit the state of financial emergency.[25] The plan, at a minimum, must include:[26]

- Provision for payment in full of all obligations which triggered the state of financial emergency that are currently due or will come due;[27]
- Establishing priority budgeting or zero-based budgeting in order to eliminate items that are not affordable;
- Prohibiting a level of operations which can be sustained only with nonrecurring revenues; and
- Provisions implementing the consolidation, sourcing, or discontinuance of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

The failure of members of the governing body of a municipality to resolve a state of financial emergency may result in the removal of those members for malfeasance, misfeasance, and neglect of duty.[28]

The Governor may terminate a state of financial emergency upon making a determination that the municipality:[29]

- Has established and is operating an effective financial accounting and reporting system;
- Has resolved the conditions that triggered the state of financial emergency, and
- Does not currently meet any of the criteria to trigger a state of financial emergency.

As of November 15, 2018, 11 municipalities were in a state of financial emergency.[30]

Effect of Proposed Changes

The bill would require any municipality that meets one or more specified criteria to hold a referendum on municipal dissolution. Those criteria include:

- The municipality has been in a state of financial emergency for two or more years.
- The municipality has failed to comply with the terms of any signed agreement with the Governor's office as part of a financial emergency where a financial emergency board has been established.[31]

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[24] S. 218.503(3)(g)1., F.S.
[25] S. 218.503(3)(h), F.S.
[26] S. 218.503(3)(h)1.-4., F.S.
[27] These items must be designated as priority items.
[28] S. 218.503(6), F.S. *See* Art. IV, s. 7, Fla. Const. (suspension power of the Governor).
[29] S. 218.504, F.S.
[30] Joint Legislative Auditing Committee, *Financial Emergencies*, http://www.leg.state.fl.us/cgi-bin/View_Page.pl?File=financial-emergencies.cfm&Directory=committees/joint/Jcla/&Tab=committees (last visited Jan. 28, 2020).
[31] The bill states that failing to submit a recovery plan, the required budget documents and amendments, or invoices that support requested expenditures constitute a failure to comply with the agreement.

- The municipality has submitted its annual financial report required by s. 218.32, F.S., and its annual financial audit report required by s. 218.39, F.S., more than three months late for two or more consecutive years.
- A grand jury or Auditor General audit report was issued within the past three years that contained a significant number of findings and the municipality failed to resolve five or more of those findings within twelve months from the issuance of the report.

If any of the above criteria occur, the governing body of the municipality (or the governing body of the county the municipality is located in, if the governing body of the municipality fails to act) has 30 days to set the date of a referendum to dissolve the municipality. The referendum must be held at the next regularly scheduled general election. The municipality is required to provide notice at least once each week for two consecutive weeks in a newspaper of general circulation in the municipality prior to the election.

B. SECTION DIRECTORY:

Section 1: Amends s. 165.051, F.S., concerning municipal dissolution procedures.

Section 2: Provides an effective date of July 1, 2020.

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:

   The bill may increase municipality expenditures to the extent a municipality must hold a referendum as required by the act.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The county/municipality mandates provision of article VII, section 18, of the Florida Constitution may apply because this bill requires municipalities to conduct a referendum election if certain conditions

are met; however, an exemption may apply. Laws having an insignificant fiscal impact are exempt from the requirements of article VII, s. 18 of the Florida Constitution.

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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 3, 2020, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provides that a municipality may be subject to a referendum on municipal dissolution if the municipality has:

- submitted its annual financial report and the annual financial audit report more than three months late for two or more consecutive years, or
- been the subject of a grand jury or an Auditor General audit report issued within the past three years that contains a significant number of findings and the municipality failed to resolve five or more of those findings within twelve months from the issuance of the report.

The amendment also requires any referendum on municipal dissolution held pursuant to the provisions of the bill occur at a general election.

This analysis is drafted to the committee substitute as approved by the Local, Federal & Veterans Affairs Subcommittee.

1 A bill to be entitled
2 An act relating to dissolution of municipalities;
3 amending s. 165.051, F.S.; requiring the dissolution
4 of a municipality after a referendum is held if
5 specified conditions are met; providing the procedures
6 for setting the date for a referendum to dissolve a
7 municipality; providing notice requirements; providing
8 an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Section 165.051, Florida Statutes, is amended
13 to read:
14 165.051 Dissolution procedures.—
15 (1) The charter of any existing municipality may be
16 revoked and the municipal corporation dissolved by ~~either~~:
17 (a) A special act of the Legislature; ~~or~~
18 (b) An ordinance of the governing body of the
19 municipality, approved by a vote of the qualified voters; or
20 (c) Approval of a vote of a majority of the qualified
21 electors voting in a referendum to dissolve the municipality
22 that must be held if one or more of the following criteria
23 applies:
24 1. The municipality has been in a state of financial
25 emergency for 2 or more years.

26 2. A financial emergency board has been established in
27 response to a financial emergency and the municipality has
28 failed to comply with the terms included in any signed agreement
29 with the Governor's office as part of the financial emergency.
30 Failure to comply with the terms of any signed agreement
31 includes failing to submit a recovery plan, the required budget
32 documents and amendments, and invoices that support requested
33 expenditures.
34 3. The municipality has submitted its annual financial
35 report required by s. 218.32, and the annual financial audit
36 report required by s. 218.39, more than 3 months late for 2 or
37 more consecutive years.
38 4. A grand jury or an Auditor General audit report was
39 issued within the past 3 years that contains a significant
40 number of findings and the municipality has failed to resolve
41 five or more of those findings within 12 months after issuance
42 of the report.
43 (2)(a) If a vote of the qualified voters is required
44 pursuant to paragraph (1)(b), the governing body of the
45 municipality or, if the municipal governing body does not act
46 within 30 days, the governing body of the county or counties in
47 which the municipality is located, shall set the date of the
48 election, which shall be the next regularly scheduled election
49 or a special election held prior to such election, if approved
50 by a majority of the members of the governing body of each

51 governmental unit affected, but no sooner than 30 days after
52 passage of the ordinance. Notice of the election shall be
53 published at least once each week for 2 consecutive weeks prior
54 to the election in a newspaper of general circulation in the
55 municipality.
56 (b) Within 30 days after one or more of the criteria
57 contained in subparagraphs (1)(c)1.-4., is met, the governing
58 body of the municipality or, if the municipal governing body
59 does not act, the governing body of the county or counties in
60 which the municipality is located, shall set the date of the
61 referendum to dissolve the municipality, which shall be the next
62 regularly scheduled general election. Notice of the election
63 shall be published at least once each week for 2 consecutive
64 weeks prior to the election in a newspaper of general
65 circulation in the municipality.
66 Section 2. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1249 Transfer of Tax Exemption for Veterans
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee, Sullivan
TIED BILLS: **IDEN./SIM. BILLS:** SB 1662

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 0 N, As CS	Darden	Miller
2) Ways & Means Committee		Curry KC	Langston
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution requires all property to be assessed at just value (i.e. market value) as of January 1 of each year for purposes of ad valorem taxation. Property assessments are used to calculate ad valorem taxes that fund counties, municipalities, district school boards and special districts. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by applicable exceptions and exemptions allowed by the Florida Constitution. One such exemption is on the first $25,000 of assessed value of a homestead property, which is exempt from all taxes. A second homestead exemption is on the assessed value between $50,000 and $75,000, which is exempt from all taxes other than school district taxes.

The homestead property of a veteran who was honorably discharged with a service-connected total and permanent disability is exempt from taxation. To qualify for this exemption, the veteran must be a permanent resident of the state on January 1 of the tax year for which exemption is being claimed. The presentation of a letter of total and permanent disability from the United States Government or United States Department of Veterans Affairs by a veteran or their spouse to the property appraiser is prima facie evidence of entitlement to the exemption.

The bill allows a veteran who was honorably discharged with a service-connected total and permanent disability to apply for this homestead property exemption in the current tax year for a property acquired after January 1 of the tax year if the veteran had received the exemption on another property in the immediately preceding tax year.

The bill provides that notwithstanding the exemption filing deadline established by statute, the veteran may file for the exemption with the property appraiser at any time during the current tax year. The application for the exemption must identify both the previous homestead and new property. The applicant must also certify under oath that he or she:

- Is otherwise qualified to the receive the tax exemption for permanently and totally disabled veterans;
- Holds legal or beneficial title to the new property; and
- Intends to use the new property as his or her homestead.

The bill provides that if the application for the exemption is received more than 25 days after the property appraiser mails the TRIM notice, the property appraiser shall correct the assessment to reflect the exemption.

The Revenue Estimating Conference estimates that the bill would reduce local government revenue by $4.4 million, beginning in Fiscal Year (FY) 2020-21, growing to an annual reduction of $6.2 million by FY 2024-25.

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.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Ad Valorem Taxation

The Florida Constitution reserves to local governments the authority to levy ad valorem taxes on real and tangible personal property.[1] Ad valorem taxes are levied annually 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 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 parcel of real property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.[5]

Each property appraiser must complete an assessment of the value of all property within the appraiser's jurisdiction and certify to the taxing authorities the taxable value of such property no later than July 1 of each year, unless extended for good cause by the Department of Revenue (DOR).[6] The taxable value of a parcel includes both the value of structures and other improvements on the parcel and the value of the land on which those structures and improvements sit.[7] The property appraiser also ensures that all real property is listed on the real property assessment roll.[8]

Each taxing authority uses the taxable value provided by the property appraiser to prepare a proposed millage rate that is levied on each parcel's taxable value.[9] Each taxing authority must compute proposed or final millage rates based on utilizing at least 95 percent of the taxable value of the property within the boundaries of the taxing authority. Each taxing authority must prepare and submit its tentative budget in accordance with applicable law.[10]

Within 35 days of the certification of value by the property appraiser, each taxing authority must inform the property appraiser of its proposed millage rate, its rolled-back rate,[11] and the date, time, and

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[1] Art. VII, ss. 1(a), 9(a), Fla. Const.
[2] S. 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. S. 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 Art. VII, s. 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.
[3] Art. VII, s. 4, Fla. Const.
[4] Art. VII, ss. 3, 4, and 6, Fla. Const.
[5] S. 196.031, F.S.
[6] S. 193.023(1), F.S.
[7] *See The Appraisal Process and Your Taxes*, Hillsborough County Property Appraiser, *available at* http://www.hcpafl.org/Property-Info/The-Appraisal-Process-Your-Taxes (last visited Jan. 24, 2020) (process for calculating property tax values).
[8] S. 193.085(1), F.S.
[9] S. 200.065(2)(a)1., F.S.
[10] *See* s. 200.065(2)(a)2.-4., F.S. (requiring county commissions to prepare and submit budgets in accordance with s. 129.03, F.S., requiring school districts to prepare and submit budgets in accordance with Ch. 1011, F.S., and requiring other taxing authorities to prepare and consider budgets in accordance with s. 200.065 and other provisions of law).
[11] The "rolled-back rate" is defined as "[A] millage rate which, exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, property added due to geographic boundary changes, total taxable value of tangible personal property within the jurisdiction in excess of 115 percent of the previous year's total taxable value, and any dedicated increment value, will provide the same ad valorem tax revenue for each taxing authority

location of the public hearing to be held to consider the proposed millage rate and tentative budget.[12] This information is used by the property appraiser to prepare notices of proposed property taxes.[13] The notice must be mailed by the later of 55 days after the certification of value by the property appraiser or 10 days after the tax roll is approved or statutory interim roll procedures[14] have been instituted. If the notice is not mailed until 10 days after the tax roll is approved or interim roll procedures are instituted, all statutory deadlines[15] are extended by a number of days equal to the difference between the deadline for the mailing of proposed notices and 55 days after the certification of value.

Corrections

The property appraiser may correct a material mistake of fact concerning "an essential condition of the subject property," if the correction would reduce the assessed value of the property.[16] The property appraiser may make a correction within one year of the approval of the tax roll.[17] A correction does not impact the ability of the tax collector to enforce collection of taxes owed. If an error is corrected in the current year's tax roll, the property appraiser may send a refund request to DOR or directly to the tax collector. Errors in a previous year's tax roll must be sent to DOR.

Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a $25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.[18] An additional $25,000 exemption applies to homestead property value between $50,000 and $75,000. This exemption does not apply to ad valorem taxes levied by school districts.

Exemption for Permanently and Totally Disabled Veterans

The homestead property of a veteran who was honorably discharged with a service-connected total and permanent disability is exempt from taxation.[19] To qualify for this exemption, the veteran must be a permanent resident of the state on January 1 of the tax year for which exemption is being claimed or must have been a permanent resident of this state on January 1 of the year the veteran died. If the veteran predeceases their spouse, the spouse may continue to receive the exemption as long as the property remains the homestead property of the spouse and the spouse is unmarried.[20]

The presentation of a letter of total and permanent disability from the United States Government or United States Department of Veterans Affairs by a veteran or their spouse to the property appraiser is prima facie evidence of entitlement to the exemption.[21] A veteran may apply for the exemption before receiving documentation from the United States Government or the United States Department of

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as was levied during the prior year less the amount, if any, paid or applied as a consequence of an obligation measured by the dedicated increment value." S. 200.065(1), F.S.

[12] S. 200.065(2)(b), F.S.

[13] This notice is commonly referred to as a truth-in-millage, or TRIM, notice.

[14] *See* s. 193.1145, F.S.

[15] *See* s. 200.065, F.S.

[16] S. 197.122(3), F.S. "[A]n essential condition of the subject property" is defined as environmental restrictions, zoning restrictions, or restrictions on permissible use; acreage; wetlands or other environmental lands that are or have been restricted in use because of such environmental features; access to usable land; any characteristic of the subject parcel which, in the property appraiser's opinion, caused the appraisal to be clearly erroneous; or depreciation of the property that was based on a latent defect of the property which existed but was not readily discernible by inspection on January 1, but not depreciation from any other cause. S. 197.122(3)(a), F.S.

[17] S. 197.122(3)(b), F.S.

[18] Art. VII, s. 6(a), Fla. Const.

[19] S. 196.081(1), F.S.

[20] S. 196.081(3), F.S.

[21] S. 196.081(2), F.S.

Veterans Affairs.[22] When the property appraiser receives the documentation, the exemption is granted as of the date of the original application, with excess taxes paid refunded (subject to the four-year period of limitation under s. 197.182(1)(e), F.S.).

Annual Application

Each person or organization who meets the criteria for an ad valorem tax exemption may claim the exemption if the claimant held legal title to the real or personal property subject to the exemption on January 1.[23] The application for exemption must be filed with the property appraiser on or before March 1 and failure to make an application constitutes a waiver of the exemption for that year. The application must list and describe the property for which the exemption is being claimed and certify the ownership and use of the property. The claimant must reapply for the exemption on an annual basis, unless the property appraiser (subject to approval by a vote of the governing body of the county) has waived the annual application requirement for property after an initial application is made and the exemption granted.[24]

Effect of Proposed Changes

The bill would allow a veteran who was honorably discharged with a service-connected total and permanent disability to apply for the homestead property exemption under s. 196.081(1), F.S., in the current tax year for a property acquired after January 1 of that year if the veteran had received the exemption on another property in the immediately preceding tax year.

The bill provides that notwithstanding the exemption filing deadline established by s. 196.011, F.S., the veteran may file for the exemption with the property appraiser at any time during the current tax year. The application for the exemption must list and describe both the previous homestead and new property. The applicant must also certify under oath that he or she:

- Is otherwise qualified to the receive the tax exemption for permanently and totally disabled veterans;
- Holds legal or beneficial title to the new property; and
- Intends to use the new property as his or her homestead.

The bill provides that if the application for the exemption is received more than 25 days after the property appraiser mails the TRIM notice, the property appraiser shall correct the assessment to reflect the exemption.

Also, to accommodate the above changes, the bill amends property appraisers' authority to make corrections to the tax roll.

B. SECTION DIRECTORY:

Section 1: Amends s. 196.011, F.S., to provide an exception.

Section 2: Amends s. 196.081, F.S., to authorize a tax exemption for certain permanently and totally disabled veterans to be applied to property acquired in the current tax year under certain conditions.

Section 3: Amends s. 197.122, F.S., to require the property appraiser to correct an assessment under certain circumstances.

Section 4: Provides an effective date of July 1, 2020.

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[22] S. 196.081(5), F.S.
[23] S. 196.011(1)(a), F.S.
[24] S. 196.011(5), (9)(a), F.S.

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 estimates that the bill would reduce local government revenue by $4.4 million, beginning in FY 2020-21, eventually growing to an annual reduction of $6.2 million by FY 2024-25.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may reduce ad valorem tax liability for those who qualify for the exemption for certain permanently and totally disabled veterans, to the extent those veterans would not currently receive the benefit of the exemption in the year a new homestead property was purchased.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces ad valorem tax revenues to the extent qualified veterans will receive the benefit of ad valorem tax exemption on two parcels in the year of transfer. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 3, 2020, the Local, Federal and Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment allows a qualifying veteran to apply for the exemption at any time during the tax year. If the application is filed more than 25 days after the

TRIM notice is mailed, the amendment requires the property appraiser to correct the assessment to reflect the exemption. The amendment also clarifies that a veteran may apply for the exemption if he or she holds beneficial title to the property.

The analysis is drafted to the committee substitute as approved by the Local, Federal and Veterans Affairs Subcommittee.

1 A bill to be entitled
2 An act relating to transfer of tax exemption for
3 veterans; amending s. 196.011, F.S.; conforming a
4 provision to changes made by the act; amending s.
5 196.081, F.S.; authorizing certain veterans who
6 acquire a new homestead after the deadlines for
7 receiving the tax exemption for a current year have
8 passed to receive the exemption under specified
9 circumstances; amending s. 197.122, F.S.; requiring
10 property appraisers to correct specified assessments
11 under certain circumstances; providing an effective
12 date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Paragraph (a) of subsection (1) of section
17 196.011, Florida Statutes, is amended to read:
18 196.011 Annual application required for exemption.—
19 (1)(a) <u>Except as provided in s. 196.081(1)(b),</u> every
20 person or organization who, on January 1, has the legal title to
21 real or personal property, except inventory, which is entitled
22 by law to exemption from taxation as a result of its ownership
23 and use shall, on or before March 1 of each year, file an
24 application for exemption with the county property appraiser,
25 listing and describing the property for which exemption is

26 claimed and certifying its ownership and use. The Department of
27 Revenue shall prescribe the forms upon which the application is
28 made. Failure to make application, when required, on or before
29 March 1 of any year shall constitute a waiver of the exemption
30 privilege for that year, except as provided in subsection (7) or
31 subsection (8).
32 Section 2. Subsection (1) of section 196.081, Florida
33 Statutes, is amended to read:
34 196.081 Exemption for certain permanently and totally
35 disabled veterans and for surviving spouses of veterans;
36 exemption for surviving spouses of first responders who die in
37 the line of duty.—
38 (1)(a) Any real estate that is owned and used as a
39 homestead by a veteran who was honorably discharged with a
40 service-connected total and permanent disability and for whom a
41 letter from the United States Government or United States
42 Department of Veterans Affairs or its predecessor has been
43 issued certifying that the veteran is totally and permanently
44 disabled is exempt from taxation, if the veteran is a permanent
45 resident of this state on January 1 of the tax year for which
46 exemption is being claimed or was a permanent resident of this
47 state on January 1 of the year the veteran died.
48 (b) The exemption under paragraph (a) shall be applied to
49 a current tax year if the real estate owned and used as a
50 homestead is acquired by the veteran after January 1 of the

51 current tax year and the veteran received the exemption on
52 another property in the immediately prior tax year.
53 Notwithstanding the exemption filing requirements of s. 196.011,
54 to receive the exemption under this paragraph, the veteran must
55 file an application with the property appraiser and may do so at
56 any time during the current tax year. If the application is
57 filed after the 25th day following the date the property
58 appraiser mails the assessment notice under s. 200.069, the
59 exemption shall be processed as a correction pursuant to s.
60 197.122(3). The applicant must identify the previous homestead
61 and the new property and certify under oath that the veteran
62 meets all of the following requirements:
63 1. Is otherwise qualified to receive the exemption under
64 paragraph (a).
65 2. Holds legal title or beneficial title to the new
66 property.
67 3. Intends to use or uses the new property as his or her
68 homestead.
69 Section 3. Subsection (3) of section 197.122, Florida
70 Statutes, is amended to read:
71 197.122 Lien of taxes; application.—
72 (3) A property appraiser shall correct an assessment to
73 reflect an exemption granted under s. 196.081(1), if the
74 application for the exemption was filed after the 25th day
75 following the date the property appraiser mails the assessment

76 notice under s. 200.069. A property appraiser may also correct a
77 material mistake of fact relating to an essential condition of
78 the subject property to reduce an assessment if to do so
79 requires only the exercise of judgment as to the effect of the
80 mistake of fact on the assessed or taxable value of the
81 property.
82 (a) As used in this subsection, the term "an essential
83 condition of the subject property" means a characteristic of the
84 subject parcel, including only:
85 1. Environmental restrictions, zoning restrictions, or
86 restrictions on permissible use;
87 2. Acreage;
88 3. Wetlands or other environmental lands that are or have
89 been restricted in use because of such environmental features;
90 4. Access to usable land;
91 5. Any characteristic of the subject parcel which, in the
92 property appraiser's opinion, caused the appraisal to be clearly
93 erroneous; or
94 6. Depreciation of the property that was based on a latent
95 defect of the property which existed but was not readily
96 discernible by inspection on January 1, but not depreciation
97 from any other cause.
98 (b) The material mistake of fact or the assessment
99 benefitting from an exemption granted under s. 196.081(1), if
100 the application for the exemption was filed after the 25th day

101 following the date the property appraiser mails the assessment
102 notice under s. 200.069, may be corrected by the property
103 appraiser, in the same manner as provided by law for performing
104 the act in the first place only within 1 year after the approval
105 of the tax roll pursuant to s. 193.1142. If corrected, the tax
106 roll becomes valid ab initio and does not affect the enforcement
107 of the collection of the tax. If the correction results in a
108 refund of taxes paid on the basis of an erroneous assessment
109 included on the current year's tax roll, the property appraiser
110 may request the department to pass upon the refund request
111 pursuant to s. 197.182 or may submit the correction and refund
112 order directly to the tax collector in accordance with the
113 notice provisions of s. 197.182(2). Corrections to tax rolls for
114 previous years which result in refunds must be made pursuant to
115 s. 197.182.
116 Section 4. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1331 Fire Control Districts and Firefighter Pensions
SPONSOR(S): Roach
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	15 Y, 0 N	Smith	Smith
2) Ways & Means Committee		Berg	Langston
3) State Affairs Committee			

SUMMARY ANALYSIS

The Marvin B. Clayton Firefighters' Pension Trust Fund Act (Act) provides a uniform retirement system for the benefit of municipal firefighters. Participation in the trust fund is limited to incorporated municipalities and to special fire control districts. An incentive for establishing firefighter retirement plans through the Act is authority to levy an insurance premium excise tax on the gross premiums of property insurance covering property within the boundaries of the municipality or special fire control district. Currently, unincorporated areas of a county may not participate in the fund unless a special fire control district includes the unincorporated area.

A county has the authority to establish Municipal Services Taxing Units (MSTUs) for any part or all of the unincorporated area of a county. The creation of an MSTU allows the county's governing body to place the burden of ad valorem taxes upon property in a geographic area less than countywide to fund a particular municipal-type service or services.

The bill expands the applicability of the Act to allow a municipality that provides fire protection services to a MSTU through an interlocal agreement to receive insurance premium taxes, newly authorized by the bill to be levied and collected within the MSTU boundary, for the purpose of providing pension benefits to the municipality's firefighters.

The Revenue Estimating Conference, on January 31, 2020, estimated that the bill would have a state General Revenue impact of -$0.1 million in fiscal year 2020-2021 and -$0.3 million annually thereafter and a local government revenue impact of $0.1 million in fiscal year 2020-2021 and $0.3 million annually thereafter.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Municipal Firefighters' Pension Trust Fund
Local firefighter pension plans are governed by Chapter 175, F.S., which is known as the Marvin B. Clayton Firefighters' Pension Trust Fund Act (Act). The Act declares a legitimate state purpose to provide a uniform retirement system for the benefit of firefighters.[1] All municipal and special district firefighter retirement trust fund systems and plans must be managed, administered, operated, and funded to maximize the protection of firefighters' pension trust funds.[2]

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive – access to premium tax revenues - to encourage cities to establish firefighter retirement plans. Special fire control districts became eligible to participate in 1993.

Participation in the trust fund is limited to incorporated municipalities and to special fire control districts. Single consolidated governments of a county and one or more municipalities are also allowed to participate in the trust fund. Currently, unincorporated areas of a county may not participate unless a special fire control district includes the unincorporated areas.

Pension Funding Sources
Four sources provide funding for these pension plans:

- Net proceeds from an excise tax levied by a city upon property and casualty insurances companies (known as the "premium tax");
- Employee contributions;
- Other revenue sources; and
- Mandatory payments by the city of the normal cost of the plan.[3]

The premium tax is an excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or special fire control district.[4] This tax is taken as a credit against the state insurance premium tax. The insurers pay the tax to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the Division of Retirement (division) in the Department of Management Services (DMS). In 2018, premium tax distributions to municipalities and special fire control districts from the Firefighters' Pension Trust Fund amounted to $77.1 million.[5]

A municipality that has entered into a one-year or longer interlocal agreement to provide fire services to another incorporated municipality may receive its premium taxes.[6] The municipality providing fire services must notify the division of the interlocal agreement. The division may then distribute any premium taxes reported for the other incorporated municipality to the municipality providing the fire services.

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[1] Section 175.021(1), F.S.
[2] *Id.*
[3] Section 175.091(1), F.S.
[4] Section 175.101(1), F.S.
[5] Department of Management Services, *Municipal Police and Fire Plans*, available at https://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans (last visited 2/2/20).
[6] Although, the criteria in s. 175.041(3)(c), F.S., must be met.

Counties Furnishing Municipal Services

General law implements the constitutional provision authorizing a county furnishing municipal services to levy additional taxes within the limits fixed for municipal purposes via the establishment of Municipal Services Taxing Units (MSTU).[7] The creation of a MSTU allows the county's governing body to place the burden of ad valorem taxes upon property in a geographic area less than countywide to fund a particular municipal-type service or services. The MSTU is used in a county budget to separate those ad valorem taxes levied within the taxing unit itself to ensure that the funds derived from the tax levy are used within the boundaries of the taxing unit for the contemplated services. If ad valorem taxes are levied to provide these municipal services, counties are authorized to levy up to ten mills.[8]

The MSTU may encompass the entire unincorporated area, a portion of the unincorporated area, or all or part of the boundaries of a municipality. However, the inclusion of municipal boundaries within the MSTU is subject to the consent by ordinance of the governing body of the affected municipality given either annually or for a term of years.[9]

Firefighter's Supplemental Compensation Trust Fund

Every firefighter is entitled to supplemental compensation from the employing agency when specified circumstances are met.[10] The Firefighters' Supplemental Compensation Trust Fund, created under the Department of Revenue, provides the funds necessary for firefighters to receive supplemental compensation under Florida law.[11] Supplemental compensation is provided to firefighters who pursue higher educational opportunities that directly relate to the improvement of the health, safety, and welfare of firefighters and those who firefighters protect.[12] The Firefighters' Supplemental Compensation Trust Fund is funded by certain amounts appropriated from the Police and Firefighter's Premium Tax Trust Fund.[13]

The amount of supplemental compensation for a firefighter is determined as follows:

- Fifty dollars is paid monthly to a firefighter who receives an associate degree from a college if the degree is applicable to fire department duties; and
- One hundred and ten dollars is paid monthly to a firefighter who receives a bachelor's degree from a college or university, regardless of whether the firefighter earned an associate degree earlier if the bachelor's degree is applicable to fire department duties.[14]

Municipal Services Taxing Units

A Municipal Service Taxing Unit (MSTU) is a funding mechanism for community members to create, through approval of the Board of County Commissioners, a special taxing unit to make improvements to a community area or provide additional services based on community needs.[15]

The legislative and governing body of a county has the power to carry on the county government.[16] This power includes the power to establish MSTUs for any part or all of the unincorporated areas of a county.[17] The creation of an MSTU allows the county's governing body to place the burden of ad valorem taxes upon property in a geographic area less than countywide to fund a particular municipal-

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[7] Section 125.01(1)(q), F.S.
[8] Section 200.071(3), F.S.
[9] Office of Economic and Demographic Research, *Local Government Financial Information Handbook* (2019).
[10] Section 633.422, F.S.
[11] *Id.*
[12] *Id.* at (1)
[13] *Id.* at (3)
[14] *Id.* at (2)
[15] *See* Collier County, MSTU Information, *available at:* https://www.colliercountyfl.gov/your-government/divisions-f-r/public-transit-neighborhood-enhancement/our-services/mstu-information (last visited Feb. 3, 2020).
[16] Section 125.01(1), F.S.
[17] *Id.* at (q)

type service or services. The MSTU is used in a county budget to separate those ad valorem taxes levied within the taxing unit itself to ensure that the funds derived from the tax levy are used within the boundaries of the taxing unit for the contemplated services. If ad valorem taxes are levied to provide these municipal services, counties are authorized to levy up to 10 mills.[18]

The MSTU may encompass the entire unincorporated area, a portion of the unincorporated area, or all or part of the boundaries of a municipality. However, the inclusion of municipal boundaries within the MSTU is subject to consent by ordinance of the governing body of the affected municipality given either annually or for a term of years.[19]

Special Districts

A "special district" is "a unit of local government created for a special purpose... operat[ing] within a limited geographic boundary and is created by general law, special act, local ordinance, or rule of the Governor and Cabinet."[20] Special districts are created to provide a wide variety of services, such as mosquito control,[21] beach facilities,[22] children's services,[23] fire control and rescue,[24] or drainage control.[25]

Special districts are classified as "dependent special districts" or "independent special districts." For a special district to be classified as a dependent special district, the district must meet at least one of the following criteria:

- Membership of its governing body is identical to that of the governing body of a single county or a single municipality;
- All members of its governing body are appointed by the governing body of a single county or a single municipality;
- The members of its governing body are subject to removal at will by the governing body of a single county or single municipality, during their unexpired terms; or
- The district has a budget that requires approval or can be vetoed by the governing body of a single county or a single municipality.[26]

Alternatively, an independent special district is any special district that does not meet the definition of a "dependent special district."[27] Furthermore, any special district that includes territory in more than one county is an independent special district, unless the district lies entirely within the borders of a single municipality.[28]

Excluding community development districts, the charter creating an independent special district must contain the following information:

- The purpose of the special district;
- The powers, functions, and duties of the special district relating to ad valorem taxes, bonds and other revenue-raising abilities, budget preparation and approval, liens and lien foreclosures, and the use of tax deeds and certificates for non-ad valorem assessments and contractual agreements;
- Method for establishing the district and amending the district charter;

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[18] Section 200.071(3), F.S.
[19] Section 125.01(1)(q), F.S.
[20] Section 189.012(6), F.S.
[21] Section 388.021(1), F.S., (however, new independent mosquito control districts are prohibited, *see* s. 388.021(2), F.S.).
[22] *See* Section 189.011, F.S.
[23] Section 125.901(1), F.S.
[24] Section 191.002, F.S.
[25] Section 298.01, F.S.
[26] Section 189.012(2), F.S.
[27] Section 189.012(3), F.S.
[28] *Id.*

- The membership, organization, compensation, and administrative duties of the governing board and its members;
- Applicable financial disclosure, noticing, and reporting requirements;
- Procedures and requirements for bond issues, if the special district will issue bonds;
- Election procedures and requirements;
- Method for financing the district;
- Authorized millage rate, and methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and
- District boundaries.

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.[29]

Special districts may enter into interlocal agreements with one or more other local governmental units, provided that the special district is authorized to operate in the geographic bounds of the other local government unit.[30] Under such an agreement, the special district may exercise jointly with the other participating local governments, those powers, privileges, or authorities which they have in common, and each may exercise separately.[31]

Independent Special Fire Control Districts

Chapter 191, F.S., the "Independent Special Fire Control District Act" (Fire Control Act or Act), establishes standards and procedures for the operation and governance of independent special fire control districts and provides greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of districts.[32] There are currently 64 fire control districts established by ch. 191, F.S., operating across Florida.[33]

Unless otherwise exempted by special or general law, each district, whether created by special act, a general law of local application, or county ordinance, must comply with the Fire Control Act. The Act supersedes any special act or general law of local application containing the charter of a district, excluding provisions addressing district boundaries and geographical sub-districts for the election of members of the governing board.[34]

The Fire Control Act prescribes procedures for the election, composition, and general administration of a district's governing board, and contains a broad list of the district's general powers to be exercised by a majority vote of the governing board.[35] The Act grants districts special powers related to facilities and duties, and are required to provide for fire suppression and prevention by establishing and maintaining fire stations and substations, and by acquiring and maintaining firefighting and fire protection equipment necessary to prevent or fight fires. All construction must comply with applicable state, regional, and local regulations, including applicable comprehensive plans and land development regulations.[36]

A fire control district may levy ad valorem taxes up to 3.75 mills unless a greater millage rate is authorized by law, subject to a referendum as required by the Florida Constitution and the Fire Control

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[29] FLA. CONST. Art. VII, s. 9(a),.
[30] Sections 163.01(2) and (3)(b), F.S.
[31] Section 163.10(4), F.S.
[32] Section 191.002, F.S.
[33] *See* Florida Department of economic Opportunity, Official List of Special Districts Online, *available at:* http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx (last visited Jan. 30, 2020).
[34] Section 191.004, F.S.
[35] Section 191.006, F.S.
[36] Section 191.008, F.S.

Act. Districts may also be authorized to levy special assessments, user charges, and impact fees under the Fire Control Act.[37]

Boundaries of a district may be modified, extended, or enlarged only upon approval or ratification by the Legislature.[38] New independent fire control districts may be created only by the Legislature under s. 189.031, F.S.

Fire control districts are authorized to cooperate or contract with other persons or entities, including other governmental agencies, as necessary, convenient, incidental, or proper in connection with providing effective mutual aid and furthering any power, duty, or the purpose authorized by the Fire Control Act.[39] Additionally, the Act affords districts the right to issue usage charges for special emergency services, including firefighting occurring in or to structures outside the district, if called to render such emergency services.[40]

Florida Interlocal Cooperation Act of 1969

The Florida Interlocal Cooperation Act provides local governmental units the right to enter into mutually advantageous agreements to provide services or facilities to other localities.[41] This section of the law allows public agencies of the state to exercise jointly with any other public agency of the state, of any other state, or the United States Government any power, privilege, or authority which such agencies share in common and which each might exercise separately.[42] To effectuate interlocal cooperation under this section, local governmental units jointly exercising power must form and execute a contract detailing the terms and conditions of the interlocal relationship.[43]

Halifax Hospital Medical Center v. State, 278 So.3d 545 (Fla. 2019)

Created in 1925 as the Halifax Hospital District,[44] the Halifax Hospital Medical Center (commonly known as Halifax Health)[45] is an independent special district located in a portion of Volusia County.[46] As originally adopted, the charter for Halifax Hospital District authorized the establishment, construction, operation, and maintenance of hospitals as necessary for the use of the people in the district.[47] The 1925 enabling act and subsequent amendments[48] were recodified in 1979.[49] Halifax Hospital Medical Center interpreted a change in the first sentence of the basic authorization section in the 1979 charter[50] as allowing the district to provide services and open facilities outside the borders of the district.[51]

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[37] Section 191.009, F.S.
[38] Section 191.014, F.S.
[39] Section 191.006(13), F.S.
[40] Section 191.009(3)(a), F.S.
[41] Section 163.01, F.S.
[42] *Id.* at (4)
[43] *Id.* at (5)
[44] Chapter 11272, Laws of Fla. (1925).
[45] *See* Halifax Health, "Our History," at https://www.halifaxhealth.org (last visited Jan. 30, 2020). The official name of the district in the current charter is "Halifax Hospital Medical Center" and is so referenced in this analysis.
[46] Chapter 2003-374, Laws of Fla.
[47] Chapter 11272, s. 5, Laws of Fla. (1925).
[48] Chapters 13489 & 13490, Laws of Fla. (1927); ch. 16037, Laws of Fla. (1933); ch. 17977, Laws of Fla. (1937); chapter 19097, Laws of Fla. (1939); chapters 21748 & 21749, Laws of Fla. (1943); chapters 22688 & 22689, Laws of Fla. (1945); chapters 26280, 26283, 26292, Laws of Fla. (1949); chapter 27944, Laws of Fla. (1951); chapters 29579 & 29580, Laws of Fla.; chapter 31333, Laws of Fla. (1955); chapters 57-1925, 59-1952, 59-1953, 59-1954, 61-2961, 61-2963, 61-2964, 63-2019, 65-2353, 65-2354, 65-2356, 67-2155, 67-2156, 72-710, 72-711, 72-712, 74-622, 77-661, 77-662, Laws of Fla.
[49] Chapter 79-577, Laws of Fla.
[50] Chapter 79-577, s. 5, Laws of Fla.
[51] *See* Amended Brief of Halifax Hospital Medical Center, 17-18, 20, *Halifax Hospital Medical Center v. State of Fla., et al.*, Case No. SC18-683 in the Florida Supreme Court (filed 6/19/2018) [herein Appellant's Initial Brief]; Reply Brief of Halifax Hospital Medical Center, 3-5, *Halifax Hospital Medical Center v. State of Fla., et al.*, Case No. SC18-683 in the Florida Supreme Court (filed 9/19/2018) [herein Appellant's Reply Brief]. At the time these arguments were made, the

Applying this interpretation, the district established and operated extra-territorial facilities and services for several years.[52] The text on which the district relies was substantially unchanged when the 1979 charter and subsequent amending acts[53] were again recodified in 2003.[54] Each version of the charter for the Halifax Hospital Medical Center required the act to be liberally interpreted to achieve its stated purposes.[55]

On November 6, 2017, Deltona and the Halifax district entered into an interlocal agreement for the district to construct and operate health facilities within the City.[56] To finance the development and completion of the Deltona hospital, on January 8, 2018, the Board of the Halifax district adopted a resolution to issue $115 million in bonds using the district's authority.[57] Following the statutory procedure,[58] the district filed a complaint in the Circuit Court to validate the bonds.[59] The Circuit Court found the district was not authorized to construct the Deltona hospital outside the geographical boundaries of the district, and accordingly refused to validate the proposed bond issue.[60] On April 18, 2019, the Supreme Court affirmed the decision of the circuit court, holding that the district's enabling law and ch. 189, F.S., did not expressly authorize any operation outside the district boundaries.[61]

Effect of Proposed Changes

The bill expands the applicability of ch. 175, F.S., the Marvin B. Clayton Firefighters Pension Trust Fund Act (Act), to provide that the Act applies to municipalities providing fire protection services to an MSTU through an interlocal agreement. The bill authorizes municipalities to receive insurance premium taxes collected within the boundaries of an MSTU to afford pension benefits to firefighters serving the area.

It conforms ch. 175, F.S., to authorize the levy and imposition of the insurance premium tax within an MSTU in the same manner as prescribed for municipalities and fire control districts. The bill requires that certain pension trust fund money not distributed to an MSTU be appropriated to the Firefighters' Supplemental Compensation Trust Fund. The bill also permits the MSTU to revoke its participation; which would terminate eligibility for premium tax distributions.

The bill also amends s. 191.006, F.S., to expressly provide that independent special fire control districts have all powers and duties provided in ch. 189, F.S., (Uniform Special District Accountability Act), ch. 191, F.S., (Fire Control Act), and s. 163.01, F.S., (Florida Interlocal Cooperation Act), including the exercise of such powers within or without the independent special fire control district's boundary in cooperation with another governmental agency when such agency shares such powers in common with the district.

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legal standard for reviewing an agency's determination of its operative law required the court to give deference to the agency's interpretation if further interpretation was necessary. On November 6, 2018, the voters of Florida approved proposed Amendment 6 to the Florida Constitution, creating art. V, s. 21, which prohibits a reviewing court from deferring to an agency's interpretation of law and requiring an original, or *de novo* review by the court. That amendment was effective on January 8, 2019. Art. XI, s. 5(e), Fla. Const. The Supreme Court found the laws at issue were unambiguous and could be applied by the Court without need for other rules of interpretation. *Halifax Hospital Medical Center v. State of Florida*, No. SC18-683 (Fla. Apr. 18, 2019), 4.

[52] Appellant's Initial Brief, 8.

[53] Chapters 79-578, 84-539, 89-409, 91-352, Laws of Fla.

[54] Chapter 2003-374, Laws of Fla.

[55] Chapter 11272, s. 20, Laws of Fla. (1925); chapter 79-577, s. 15, Laws of Fla.; chapter 2003-374, s. 15 of s. 3, Laws of Fla.

[56] Appellant's Initial Brief, 10. *See* s. 163.01, F.S.

[57] Appellant's Initial Brief, 10. *See* chapter 2003-374, s. 8 of s. 3, Laws of Fla.

[58] Chapter 75, F.S.

[59] *Halifax Hospital Medical Center v. State of Florida, et al.*, Case no. 2018 30059 CICI, in the 7th Judicial Circuit Court in and for Volusia County, Florida.

[60] "Order on Motion for Final Judgment," Case no. 2018 30059 CICI (4/17/2018).

[61] *Halifax Hospital Medical Center v. State of Florida*, 278 So.3d 545, No. SC18-683 (Fla. Apr. 18, 2019).

The bill provides an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1: Amends s. 175.032, F.S., conforming provisions to changes made by the act.

Section 2: Amends s. 175.041. F.S., revising applicability of the Firefighters' Pension Trust Fund; authorizing a municipality that provides fire protection services to a MSTU under an interlocal agreement to receive property insurance premium taxes; authorizing a county to enact an ordinance levying a tax on behalf of a MSTU receiving fire protection services.

Section 3: Amends s. 175.071, F.S., conforming to provisions made by the act.

Section 4: Amends s. 175.101, F.S., authorizing a MSTU that enters into an interlocal agreement for fire protection services with a municipality to impose an excise tax on property insurance premiums.

Section 5: Amends s. 175.111, F.S., requiring a MSTU to provide the Division of Retirement of the Department of Management Services with a certified copy of an ordinance assessing and imposing certain taxes.

Sections 6, 7, and 8: Amends ss. 175.121, 175.122, and 175.351, F.S., revising provisions relating to the disbursement of moneys by the division and the Department of Revenue and the limitation of disbursement to conform to changes made by the act.

Section 9: Amends s. 175.381, F.S., conforming provisions to changes made by the act.

Section 10: Amends s. 175.411, F.S., authorizing a MSTU to revoke its participation and cease to receive property insurance premium taxes under certain conditions.

Section 11: Amends s. 191.006, F.S., requiring an independent special fire district to have, and authorizing the board of such district to exercise by majority vote, specified powers.

Section 12: Amends s. 633.422, F.S., conforming provisions to changes made by the act.

Section 13: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Revenue Estimating Conference, on January 31, 2020, estimated that the bill would have a state General Revenue impact of -$0.1 million in fiscal year 2020-2021 and -$0.3 million annually thereafter.[62]

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

[62] Revenue Estimating Conference, *Fire Control District Surtax, HB 1331* (adopted Jan. 31, 2020), available at: http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page326-328.pdf (last visited Feb. 13, 2020).

The Revenue Estimating Conference, on January 31, 2020, estimated that the bill would have a local government revenue impact of $0.1 million in fiscal year 2020-2021 and $0.3 million annually thereafter.[63]

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill specifies that a municipality is entitled to premium tax distributions provided by chapter 175, F.S., for providing fire services to MSTUs. As a result, this bill will have a fiscal impact on state revenues because state premium taxes paid by an insurer to fund a municipal firefighter retirement plan are credited against the premium taxes paid to the state by the insurance company.[64]

The bill will result in a positive fiscal impact on local governments because the bill provides that a municipality may collect premium tax revenues within the MSTU boundary receiving firefighter services if the consolidated government provides a municipal firefighter retirement plan, as provided for in chapter 175, F.S.

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 an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenue 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

None.

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[63] Revenue Estimating Conference, *Fire Control District Surtax, HB 1331* (adopted Jan. 31, 2020), available at: http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/page326-328.pdf (last visited Feb. 13, 2020).
[64] Section 624.509(4), F.S.

1 A bill to be entitled
2 An act relating to fire control districts and
3 firefighter pensions; amending s. 175.041, F.S.;
4 revising applicability of the Firefighters' Pension
5 Trust Fund; authorizing a municipality that provides
6 fire protection services to a municipal services
7 taxing unit under an interlocal agreement to receive
8 property insurance premium taxes; authorizing a county
9 to enact an ordinance levying a tax on behalf of a
10 municipal services taxing unit receiving fire
11 protection services; amending s. 175.101, F.S.;
12 authorizing a municipal services taxing unit that
13 enters into an interlocal agreement for fire
14 protection services with a municipality to impose an
15 excise tax on property insurance premiums; amending s.
16 175.111, F.S.; requiring a municipal services taxing
17 unit to provide the Division of Retirement of the
18 Department of Management Services with a certified
19 copy of an ordinance assessing and imposing certain
20 taxes; amending ss. 175.121, 175.122, and 175.351,
21 F.S.; revising provisions relating to the disbursement
22 of moneys by the division and the Department of
23 Revenue and the limitation of disbursement to conform
24 to changes made by the act; amending s. 175.411, F.S.;
25 authorizing a municipal services taxing unit to revoke

26 its participation and cease to receive property
27 insurance premium taxes under certain conditions;
28 amending s. 191.006, F.S.; requiring an independent
29 special fire control district to have, and authorizing
30 the board of such district to exercise by majority
31 vote, specified powers; amending ss. 175.032, 175.071,
32 175.381, and 633.422, F.S.; conforming provisions to
33 changes made by the act; providing an effective date.
34
35 Be It Enacted by the Legislature of the State of Florida:
36
37 Section 1. Subsection (14) of section 175.032, Florida
38 Statutes, is amended to read:
39 175.032 Definitions.—For any municipality, special fire
40 control district, chapter plan, local law municipality, local
41 law special fire control district, or local law plan under this
42 chapter, the term:
43 (14) "Local law plan" means a retirement plan that
44 includes both a defined benefit plan component and a defined
45 contribution plan component for firefighters, or for
46 firefighters and police officers if both are included, as
47 described in s. 175.351, established by ~~municipal~~ ordinance,
48 special district resolution, or special act of the Legislature,
49 which enactment sets forth all plan provisions. Local law plan
50 provisions may vary from the provisions of this chapter if

51 minimum benefits and minimum standards are met. However, any
52 such variance must provide a greater benefit for firefighters,
53 or firefighters and police officers if both are included.
54 Actuarial valuations of local law plans shall be conducted by an
55 enrolled actuary as provided in s. 175.261(2).
56 Section 2. Section 175.041, Florida Statutes, is amended
57 to read:
58 175.041 Firefighters' Pension Trust Fund created;
59 applicability of provisions.—For any municipality, municipal
60 services taxing unit, special fire control district, chapter
61 plan, local law municipality, local law special fire control
62 district, or local law plan under this chapter:
63 (1) There shall be established a special fund exclusively
64 for the purpose of this chapter, which ~~in the case of chapter~~
65 ~~plans~~ shall be known as the "Firefighters' Pension Trust Fund,"
66 in each municipality, municipal services taxing unit, and ~~each~~
67 special fire control district of this state ~~heretofore or~~
68 ~~hereafter created~~ which now has or which may hereafter have a
69 constituted fire department or an authorized volunteer fire
70 department, or any combination thereof.
71 (2) To qualify as a fire department or volunteer fire
72 department or combination thereof under ~~the provisions of~~ this
73 chapter, the department shall own and use apparatus for the
74 fighting of fires that was in compliance with National Fire
75 Protection Association Standards for Automotive Fire Apparatus

76 at the time of purchase.
77 (3) ~~The provisions of~~ This chapter applies ~~shall apply~~
78 only to municipalities organized and established under ~~pursuant~~
79 ~~to~~ the laws of the state and to special fire control districts.
80 This chapter does~~, and said provisions shall~~ not apply to the
81 unincorporated areas of any county or counties except with
82 respect to municipal services taxing units established in
83 unincorporated areas for the purpose of receiving fire
84 protection services from a municipality and special fire control
85 districts that include unincorporated areas. This chapter also
86 does not~~, nor shall the provisions hereof~~ apply to any
87 governmental entity whose firefighters are eligible to
88 participate in the Florida Retirement System.
89 (a) Special fire control districts that include, or
90 consist exclusively of, unincorporated areas of one or more
91 counties may levy and impose the tax and participate in the
92 retirement programs created ~~enabled~~ by this chapter.
93 (b) With respect to the distribution of premium taxes, a
94 single consolidated government consisting of a former county and
95 one or more municipalities, consolidated under ~~pursuant to~~ s. 3
96 or s. 6(e), Art. VIII of the State Constitution, is also
97 eligible to participate under this chapter. The consolidated
98 government shall notify the division when it has entered into an
99 interlocal agreement to provide fire services to a municipality
100 within its boundaries. The municipality may enact an ordinance

101 levying the tax as provided in s. 175.101. Upon being provided
102 copies of the interlocal agreement and the municipal ordinance
103 levying the tax, the division may distribute any premium taxes
104 reported for the municipality to the consolidated government as
105 long as the interlocal agreement is in effect.
106 (c) Any municipality that has entered into an interlocal
107 agreement to provide fire protection services to any other
108 incorporated municipality, in its entirety, or a municipal
109 services taxing unit in an unincorporated area~~, in its entirety,~~
110 for a period of 12 months or more may be eligible to receive the
111 premium taxes reported for such other municipality or municipal
112 services taxing unit. In order to be eligible for such premium
113 taxes, the municipality providing the fire services must notify
114 the division that it has entered into an interlocal agreement
115 with another municipality or a county on behalf of a municipal
116 services taxing unit. The municipality receiving the fire
117 services, or a county on behalf of the municipal services taxing
118 unit receiving the fire services, may enact an ordinance levying
119 the tax as provided in s. 175.101. Upon being provided copies of
120 the interlocal agreement and the ~~municipal~~ ordinance levying the
121 tax, the division may distribute any premium taxes reported for
122 the municipality or municipal services taxing unit receiving the
123 fire services to the participating municipality providing the
124 fire services as long as the interlocal agreement is in effect.
125 (4) No municipality shall establish more than one

126 retirement plan for public safety officers which is supported in
127 whole or in part by the distribution of premium tax funds as
128 provided by this chapter or chapter 185, nor shall any
129 municipality establish a retirement plan for public safety
130 officers which receives premium tax funds from both this chapter
131 and chapter 185.
132 Section 3. Section 175.071, Florida Statutes, is amended
133 to read:
134 175.071 General powers and duties of board of trustees.—
135 For any municipality, municipal services taxing unit, special
136 fire control district, chapter plan, local law municipality,
137 local law special fire control district, or local law plan under
138 this chapter:
139 (1) The board of trustees, subject to the fiduciary
140 standards in ss. 112.656, 112.661, and 518.11 and the Code of
141 Ethics in ss. 112.311-112.3187, may:
142 (a) Invest and reinvest the assets of the firefighters'
143 pension trust fund in annuity and life insurance contracts of
144 life insurance companies in amounts sufficient to provide, in
145 whole or in part, the benefits to which all of the participants
146 in the firefighters' pension trust fund are entitled under this
147 chapter and pay the initial and subsequent premiums thereon.
148 (b) Invest and reinvest the assets of the firefighters'
149 pension trust fund in:
150 1. Time or savings accounts of a national bank, a state

151 bank insured by the Bank Insurance Fund, or a savings, building,
152 and loan association insured by the Savings Association
153 Insurance Fund administered by the Federal Deposit Insurance
154 Corporation or a state or federal chartered credit union whose
155 share accounts are insured by the National Credit Union Share
156 Insurance Fund.
157 2. Obligations of the United States or obligations
158 guaranteed as to principal and interest by the government of the
159 United States.
160 3. Bonds issued by the State of Israel.
161 4. Bonds, stocks, or other evidences of indebtedness
162 issued or guaranteed by a corporation organized under the laws
163 of the United States, any state or organized territory of the
164 United States, or the District of Columbia, if:
165 a. The corporation is listed on any one or more of the
166 recognized national stock exchanges or on the National Market
167 System of the NASDAQ Stock Market and, in the case of bonds
168 only, holds a rating in one of the three highest classifications
169 by a major rating service; and
170 b. The board of trustees may not invest more than 5
171 percent of its assets in the common stock or capital stock of
172 any one issuing company, nor may the aggregate investment in any
173 one issuing company exceed 5 percent of the outstanding capital
174 stock of that company or the aggregate of its investments under
175 this subparagraph at cost exceed 50 percent of the assets of the

176 fund.
177
178 This paragraph applies to all boards of trustees and
179 participants. However, if a municipality, municipal services
180 taxing unit, or special fire control district has a duly enacted
181 pension plan under ~~pursuant to~~, and in compliance with, s.
182 175.351, and the trustees desire to vary the investment
183 procedures, the trustees of such plan must request a variance of
184 the investment procedures as outlined herein only through an ~~a~~
185 ~~municipal~~ ordinance, special act of the Legislature, or
186 resolution by the governing body of the special fire control
187 district; if a special act, or a municipality by ordinance
188 adopted before July 1, 1998, permits a greater than 50-percent
189 equity investment, such municipality is not required to comply
190 with the aggregate equity investment provisions of this
191 paragraph. Notwithstanding any other provision of law, this
192 section may not be construed to take away any preexisting legal
193 authority to make equity investments that exceed the
194 requirements of this paragraph. Notwithstanding any other
195 provision of law, the board of trustees may invest up to 25
196 percent of plan assets in foreign securities on a market-value
197 basis. The investment cap on foreign securities may not be
198 revised, amended, increased, or repealed except as provided by
199 general law.
200 (c) Issue drafts upon the firefighters' pension trust fund

201 pursuant to this act and rules prescribed by the board of
202 trustees. All such drafts must be consecutively numbered, be
203 signed by the chair and secretary, or by two individuals
204 designated by the board who are subject to the same fiduciary
205 standards as the board of trustees under this subsection, and
206 state upon their faces the purpose for which the drafts are
207 drawn. The treasurer or depository of each municipality or
208 special fire control district shall retain such drafts when
209 paid, as permanent vouchers for disbursements made, and no money
210 may be otherwise drawn from the fund.
211 (d) Convert into cash any securities of the fund.
212 (e) Keep a complete record of all receipts and
213 disbursements and the board's acts and proceedings.
214 (2) Any and all acts and decisions shall be effectuated by
215 vote of a majority of the members of the board; however, no
216 trustee shall take part in any action in connection with the
217 trustee's own participation in the fund, and no unfair
218 discrimination shall be shown to any individual firefighter
219 participating in the fund.
220 (3) The board's action on all claims for retirement under
221 this act shall be final, provided, however, that the rules and
222 regulations of the board have been complied with.
223 (4) The secretary of the board of trustees shall keep a
224 record of all persons receiving retirement payments under ~~the~~
225 ~~provisions of~~ this chapter, in which shall be noted the time

226 when the pension is allowed and the time when the pension shall
227 cease to be paid. In this record, the secretary shall keep a
228 list of all firefighters employed by the municipality, municipal
229 services taxing unit, or special fire control district. The
230 record shall show the name, address, and time of employment of
231 such firefighters and when they cease to be employed by the
232 municipality, municipal services taxing unit, or special fire
233 control district.
234 (5) The sole and exclusive administration of, and the
235 responsibilities for, the proper operation of the firefighters'
236 pension trust fund and for making effective ~~the provisions of~~
237 this chapter are vested in the board of trustees; however,
238 nothing herein shall empower a board of trustees to amend ~~the~~
239 ~~provisions of~~ a retirement plan without the approval of the
240 municipality, municipal services taxing unit, or special fire
241 control district. The board of trustees shall keep in convenient
242 form such data as shall be necessary for an actuarial valuation
243 of the firefighters' pension trust fund and for checking the
244 actual experience of the fund.
245 (6)(a) At least once every 3 years, the board of trustees
246 shall retain a professionally qualified independent consultant
247 who shall evaluate the performance of any existing professional
248 money manager and shall make recommendations to the board of
249 trustees regarding the selection of money managers for the next
250 investment term. These recommendations shall be considered by

251 the board of trustees at its next regularly scheduled meeting.
252 The date, time, place, and subject of this meeting shall be
253 advertised in the same manner as for any meeting of the board.
254 (b) For purposes of this subsection, the term
255 "professionally qualified independent consultant" means a
256 consultant who, based on education and experience, is
257 professionally qualified to evaluate the performance of
258 professional money managers, and who, at a minimum:
259 1. Provides his or her services on a flat-fee basis.
260 2. Is not associated in any manner with the money manager
261 for the pension fund.
262 3. Makes calculations according to the American Banking
263 Institute method of calculating time-weighted rates of return.
264 All calculations must be made net of fees.
265 4. Has 3 or more years of experience working in the public
266 sector.
267 (7) To assist the board in meeting its responsibilities
268 under this chapter, the board, if it so elects, may:
269 (a) Employ independent legal counsel at the pension fund's
270 expense.
271 (b) Employ an independent enrolled actuary, as defined in
272 s. 175.032, at the pension fund's expense.
273 (c) Employ such independent professional, technical, or
274 other advisers as it deems necessary at the pension fund's
275 expense.

276

277 If the board chooses to use the municipality's, municipal
278 services taxing unit's, or special district's legal counsel or
279 actuary, or chooses to use any of the municipality's, municipal
280 services taxing unit's, or special district's other
281 professional, technical, or other advisers, it must do so only
282 under terms and conditions acceptable to the board.
283 (8) Notwithstanding paragraph (1)(b) and as provided in s.
284 215.473, the board of trustees must identify and publicly report
285 any direct or indirect holdings it may have in any scrutinized
286 company, as defined in that section, and proceed to sell,
287 redeem, divest, or withdraw all publicly traded securities it
288 may have in that company beginning January 1, 2010. The
289 divestiture of any such security must be completed by September
290 30, 2010. The board and its named officers or investment
291 advisors may not be deemed to have breached their fiduciary duty
292 in any action taken to dispose of any such security, and the
293 board shall have satisfactorily discharged the fiduciary duties
294 of loyalty, prudence, and sole and exclusive benefit to the
295 participants of the pension fund and their beneficiaries if the
296 actions it takes are consistent with the duties imposed by s.
297 215.473, and the manner of the disposition, if any, is
298 reasonable as to the means chosen. For the purposes of effecting
299 compliance with that section, the pension fund shall designate
300 terror-free plans that allocate their funds among securities not

301 subject to divestiture. No person may bring any civil, criminal,
302 or administrative action against the board of trustees or any
303 employee, officer, director, or advisor of such pension fund
304 based upon the divestiture of any security pursuant to this
305 subsection.
306 Section 4. Section 175.101, Florida Statutes, is amended
307 to read:
308 175.101 State excise tax on property insurance premiums
309 authorized; procedure.—For any municipality, municipal services
310 taxing unit, special fire control district, chapter plan, local
311 law municipality, local law special fire control district, or
312 local law plan under this chapter:
313 (1) Each municipality, municipal services taxing unit, or
314 special fire control district in this state described and
315 classified in s. 175.041, having a lawfully established
316 ~~firefighters'~~ pension trust fund, ~~or~~ municipal fund, or special
317 fire control district fund, by whatever name known, providing
318 pension benefits to firefighters, or firefighters and police
319 officers if both are included, as provided under this chapter,
320 or receiving fire protection services from a municipality
321 participating under this chapter, may assess and impose on every
322 insurance company, corporation, or other insurer now engaged in
323 or carrying on, or who shall hereinafter engage in or carry on,
324 the business of property insurance as shown by the records of
325 the Office of Insurance Regulation of the Financial Services

326 Commission, an excise tax in addition to any lawful license or
327 excise tax now levied by each of the municipalities, municipal
328 services taxing units, or special fire control districts,
329 respectively, amounting to 1.85 percent of the gross amount of
330 receipts of premiums from policyholders on all premiums
331 collected on property insurance policies covering property
332 within the corporate limits of such municipalities or within the
333 legally defined boundaries of municipal services taxing units or
334 special fire control districts, respectively. Whenever the
335 boundaries of a special fire control district that has lawfully
336 established a firefighters' pension trust fund encompass a
337 portion of the corporate territory of a municipality that has
338 also lawfully established a firefighters' pension trust fund, or
339 a municipal services taxing unit receiving fire protection
340 services from a municipality participating under this chapter,
341 that portion of the tax receipts attributable to insurance
342 policies covering property situated both within the municipality
343 or municipal services taxing unit and the special fire control
344 district shall be given to the fire service provider. For the
345 purpose of this section, the boundaries of a special fire
346 control district include an area that has been annexed until the
347 completion of the 4-year period provided for in s. 171.093(4),
348 or other agreed-upon extension, or if a special fire control
349 district is providing services under an interlocal agreement
350 executed in accordance with s. 171.093(3). The agent shall

351 identify the fire service provider on the property owner's
352 application for insurance. Remaining revenues collected under
353 ~~pursuant to~~ this chapter shall be distributed to the
354 municipality or special fire control district according to the
355 location of the insured property.
356 (2) In the case of multiple peril policies with a single
357 premium for both the property and casualty coverages in such
358 policies, 70 percent of such premium shall be used as the basis
359 for the 1.85-percent tax.
360 (3) This excise tax is ~~shall be~~ payable annually on March
361 1 of each year after the passage of an ordinance, in the case of
362 a municipality or municipal services taxing unit, or resolution,
363 in the case of a special fire control district, assessing and
364 imposing the tax authorized by this section. Installments of
365 taxes shall be paid according to ~~the provision of~~ s.
366 624.5092(2)(a), (b), and (c).
367
368 This section also applies to any municipality consisting of a
369 single consolidated government which is made up of a former
370 county and one or more municipalities, consolidated under
371 ~~pursuant to~~ the authority in s. 3 or s. 6(e), Art. VIII of the
372 State Constitution, and to property insurance policies covering
373 property within the boundaries of the consolidated government,
374 regardless of whether the properties are located within one or
375 more separately incorporated areas within the consolidated

376 government, provided the properties are being provided fire
377 protection services by the consolidated government. This section
378 also applies to any municipality or municipal services taxing
379 unit in an unincorporated area, as provided in s. 175.041(3)(c),
380 which has entered into an interlocal agreement to receive fire
381 protection services from another municipality participating
382 under this chapter. The excise tax may be levied on all premiums
383 collected on property insurance policies covering property
384 located within the corporate limits of the municipality or
385 municipality services taxing unit receiving the fire protection
386 services, but will be available for distribution to the
387 municipality providing the fire protection services.
388 Section 5. Section 175.111, Florida Statutes, is amended
389 to read:
390 175.111 Certified copy of ordinance or resolution filed;
391 insurance companies' annual report of premiums; duplicate files;
392 book of accounts.—For any municipality, municipal services
393 taxing unit, special fire control district, chapter plan, local
394 law municipality, local law special fire control district, or
395 local law plan under this chapter, whenever any municipality, or
396 any county on behalf of a municipal services taxing unit, passes
397 an ordinance or whenever any special fire control district
398 passes a resolution establishing a chapter plan or local law
399 plan assessing and imposing the taxes authorized in s. 175.101,
400 a certified copy of such ordinance or resolution shall be

401 deposited with the division. Thereafter every insurance company,
402 association, corporation, or other insurer carrying on the
403 business of property insurance on real or personal property, on
404 or before the succeeding March 1 after the date of the passage
405 of the ordinance or resolution, shall report fully in writing
406 and under oath to the division and the Department of Revenue a
407 just and true account of all premiums by such insurer received
408 for property insurance policies covering or insuring any real or
409 personal property located within the corporate limits of each
410 such municipality, municipal services taxing unit, or special
411 fire control district during the period of time elapsing between
412 the date of the passage of the ordinance or resolution and the
413 end of the calendar year. The report shall include the code
414 designation as prescribed by the division for each piece of
415 insured property, real or personal, located within the corporate
416 limits of each municipality and within the legally defined
417 boundaries of each special fire control district and municipal
418 services taxing unit. The ~~aforesaid~~ insurer shall annually
419 thereafter, on March 1, file with the Department of Revenue a
420 similar report covering the preceding year's premium receipts,
421 and every such insurer at the same time of making such reports
422 shall pay to the Department of Revenue the amount of the imposed
423 tax ~~hereinbefore mentioned~~. Every insurer engaged in carrying on
424 such insurance business in the state shall keep accurate books
425 of accounts of all such business done by it within the corporate

426 limits of each such municipality and within the legally defined
427 boundaries of each such special fire control district and
428 municipal services taxing unit, and in such manner as to be able
429 to comply with ~~the provisions of~~ this chapter. Based on the
430 insurers' reports of premium receipts, the division shall
431 prepare a consolidated premium report and shall furnish to any
432 municipality, municipal services taxing unit, or special fire
433 control district requesting the same a copy of the relevant
434 section of that report.
435 Section 6. Section 175.121, Florida Statutes, is amended
436 to read:
437 175.121 Department of Revenue and Division of Retirement
438 to keep accounts of deposits; disbursements.—For any
439 municipality, municipal services taxing unit, or special fire
440 control district having a chapter or local law plan established
441 under ~~pursuant to~~ this chapter:
442 (1) The Department of Revenue shall keep a separate
443 account of all moneys collected for each municipality, municipal
444 services taxing unit, and ~~each~~ special fire control district
445 under ~~the provisions of~~ this chapter. All moneys so collected
446 must be transferred to the Police and Firefighters' Premium Tax
447 Trust Fund and shall be separately accounted for by the
448 division. The moneys budgeted as necessary to pay the expenses
449 of the division for the daily oversight and monitoring of the
450 firefighters' pension plans under this chapter and for the

451 oversight and actuarial reviews conducted under part VII of
452 chapter 112 are annually appropriated from the interest and
453 investment income earned on the moneys collected for each
454 municipality, municipal services taxing unit, or special fire
455 control district and deposited in the Police and Firefighters'
456 Premium Tax Trust Fund. Interest and investment income remaining
457 thereafter in the trust fund which is unexpended and otherwise
458 unallocated by law shall revert to the General Revenue Fund on
459 June 30 of each year.
460 (2) The Chief Financial Officer shall, on or before July 1
461 of each year, and at such other times as authorized by the
462 division, draw his or her warrants on the full net amount of
463 money then on deposit in the Police and Firefighters' Premium
464 Tax Trust Fund under ~~pursuant to~~ this chapter, specifying the
465 municipalities, municipal services taxing units, and special
466 fire control districts to which the moneys must be paid and the
467 net amount collected for and to be paid to each municipality,
468 municipal services taxing unit, or special fire control
469 district, respectively, subject to the limitation on
470 disbursement under s. 175.122. The sum payable to each
471 municipality, municipal services taxing unit, or special fire
472 control district is appropriated annually out of the Police and
473 Firefighters' Premium Tax Trust Fund. The warrants of the Chief
474 Financial Officer shall be payable to the respective
475 municipalities, municipal services taxing units, and special

476 fire control districts entitled to receive them and shall be
477 remitted annually by the division to the respective
478 municipalities, municipal services taxing units, and special
479 fire control districts. In lieu thereof, the municipality,
480 municipal services taxing unit, or special fire control district
481 may provide authorization to the division for the direct payment
482 of the premium tax to the board of trustees. In order for a
483 municipality, municipal services taxing unit, or special fire
484 control district and its pension fund to participate in the
485 distribution of premium tax moneys under this chapter, all the
486 provisions shall be complied with annually, including state
487 acceptance under ~~pursuant to~~ part VII of chapter 112.
488 (3)(a) All moneys not distributed to municipalities,
489 municipal services taxing units, and special fire control
490 districts under this section as a result of the limitation on
491 disbursement contained in s. 175.122, or as a result of any
492 municipality, municipal services taxing unit, or special fire
493 control district not having qualified in any given year, or
494 portion thereof, shall be transferred to the Firefighters'
495 Supplemental Compensation Trust Fund administered by the
496 Department of Revenue, as provided in s. 633.422.
497 (b)1. Moneys transferred under paragraph (a) but not
498 needed to support the supplemental compensation program in a
499 given year shall be redistributed pro rata to those
500 participating municipalities, municipal services taxing units,

501 and special fire control districts that transfer any portion of
502 their funds to support the supplemental compensation program in
503 that year. Such additional moneys shall be used to cover or
504 offset costs of the retirement plan.
505 2. To assist the Department of Revenue, the division shall
506 identify those municipalities, municipal services taxing units,
507 and special fire control districts that are eligible for
508 redistribution as provided in s. 633.422(3)(c)2., by listing the
509 municipalities, municipal services taxing units, and special
510 fire control districts from which funds were transferred under
511 paragraph (a) and specifying the amount transferred by each.
512 Section 7. Section 175.122, Florida Statutes, is amended
513 to read:
514 175.122 Limitation of disbursement.—For any municipality,
515 municipal services taxing unit, special fire control district,
516 chapter plan, local law municipality, local law special fire
517 control district, or local law plan under this chapter, any
518 municipality, municipal services taxing unit, or special fire
519 control district participating in the firefighters' pension
520 trust fund under ~~pursuant to the provisions of~~ this chapter,
521 whether under a chapter plan or local law plan, is ~~shall be~~
522 limited to receiving any moneys from such fund in excess of that
523 produced by one-half of the excise tax, as provided for in s.
524 175.101; however, any such municipality, municipal services
525 taxing unit, or special fire control district receiving less

526 than 6 percent of its fire department payroll from such fund is
527 ~~shall be~~ entitled to receive from such fund the amount
528 determined under s. 175.121, in excess of one-half of the excise
529 tax, not to exceed 6 percent of its fire department payroll.
530 Payroll amounts of members included in the Florida Retirement
531 System are ~~shall~~ not ~~be~~ included.
532 Section 8. Section 175.351, Florida Statutes, is amended
533 to read:
534 175.351 Municipalities, municipal services taxing units,
535 and special fire control districts that have their own
536 retirement plans for firefighters.—In order for a municipality,
537 municipal services taxing unit, or special fire control district
538 that has its own retirement plan for firefighters, or for
539 firefighters and police officers if both are included, to
540 participate in the distribution of the tax fund established
541 under s. 175.101, a local law plan must meet minimum benefits
542 and minimum standards, except as provided in the mutual consent
543 provisions in paragraph (1)(g) with respect to the minimum
544 benefits not met as of October 1, 2012.
545 (1) If a municipality, municipal services taxing unit, or
546 special fire control district has a retirement plan for
547 firefighters, or for firefighters and police officers if both
548 are included, which in the opinion of the division meets minimum
549 benefits and minimum standards, the board of trustees of the
550 retirement plan must place the income from the premium tax in s.

551 175.101 in such plan for the sole and exclusive use of its
552 firefighters, or for firefighters and police officers if both
553 are included, where it shall become an integral part of that
554 plan and be used to fund benefits as provided herein. Effective
555 October 1, 2015, for noncollectively bargained service or upon
556 entering into a collective bargaining agreement on or after July
557 1, 2015:
558 (a) The base premium tax revenues must be used to fund
559 minimum benefits or other retirement benefits in excess of the
560 minimum benefits as determined by the municipality, municipal
561 services taxing unit, or special fire control district.
562 (b) Of the additional premium tax revenues received that
563 are in excess of the amount received for the 2012 calendar year,
564 50 percent must be used to fund minimum benefits or other
565 retirement benefits in excess of the minimum benefits as
566 determined by the municipality, municipal services taxing unit,
567 or special fire control district, and 50 percent must be placed
568 in a defined contribution plan to fund special benefits.
569 (c) Additional premium tax revenues not described in
570 paragraph (b) must be used to fund benefits that are not
571 included in the minimum benefits. If the additional premium tax
572 revenues subject to this paragraph exceed the full annual cost
573 of benefits provided through the plan which are in excess of the
574 minimum benefits, any amount in excess of the full annual cost
575 must be used as provided in paragraph (b).

576 (d) Of any accumulations of additional premium tax
577 revenues which have not been allocated to fund benefits in
578 excess of the minimum benefits, 50 percent of the amount of the
579 accumulations must be used to fund special benefits, and 50
580 percent must be applied to fund any unfunded actuarial
581 liabilities of the plan; provided that any amount of
582 accumulations in excess of the amount required to fund the
583 unfunded actuarial liabilities must be used to fund special
584 benefits.
585 (e) For a plan created after March 1, 2015, 50 percent of
586 the insurance premium tax revenues must be used to fund defined
587 benefit plan component benefits, with the remainder used to fund
588 defined contribution plan component benefits.
589 (f) If a plan offers benefits in excess of the minimum
590 benefits, such benefits, excluding supplemental plan benefits in
591 effect as of September 30, 2014, may be reduced if the plan
592 continues to meet minimum benefits and minimum standards. The
593 amount of insurance premium tax revenues previously used to fund
594 benefits in excess of minimum benefits before the reduction,
595 excluding the amount of any additional premium tax revenues
596 distributed to a supplemental plan for the 2012 calendar year,
597 must be used as provided in paragraph (b). However, benefits in
598 excess of minimum benefits may not be reduced if a plan does not
599 meet the minimum percentage amount of 2.75 percent of the
600 average final compensation of a full-time firefighter, as

601 required by s. 175.162(2)(a)1., or provides an effective benefit
602 that is below 2.75 percent as a result of a maximum benefit
603 limitation as described in s. 175.162(2)(a)2.
604 (g) Notwithstanding paragraphs (a)-(f), the use of premium
605 tax revenues, including any accumulations of additional premium
606 tax revenues which have not been allocated to fund benefits in
607 excess of minimum benefits, may deviate from the provisions of
608 this subsection by mutual consent of the members' collective
609 bargaining representative or, if there is no representative, by
610 a majority of the firefighter members, or firefighter and police
611 officer members if both are included, of the fund, and by
612 consent of the municipality, municipal services taxing unit, or
613 special fire control district, provided that the plan continues
614 to meet minimum benefits and minimum standards; however, a plan
615 that operates under ~~pursuant to~~ this paragraph and does not meet
616 minimum benefits as of October 1, 2012, may continue to provide
617 the benefits that do not meet the minimum benefits at the same
618 level as was provided as of October 1, 2012, and all other
619 benefit levels must continue to meet the minimum benefits. Such
620 mutually agreed deviation must continue until modified or
621 revoked by subsequent mutual consent of the members' collective
622 bargaining representative or, if none, by a majority of the
623 firefighter members, or firefighter and police officer members
624 if both are included, of the fund, and the municipality,
625 municipal services taxing unit, or special fire control

626 district. An existing arrangement for the use of premium tax
627 revenues contained within a special act plan or a plan within a
628 supplemental plan municipality is considered, as of July 1,
629 2015, to be a deviation for which mutual consent has been
630 granted.
631 (2) The premium tax provided by this chapter must be used
632 in its entirety to provide retirement benefits to firefighters,
633 or to firefighters and police officers if both are included.
634 Local law plans created by special act before May 27, 1939, are
635 deemed to comply with this chapter.
636 (3) A retirement plan or amendment to a retirement plan
637 may not be proposed for adoption unless the proposed plan or
638 amendment contains an actuarial estimate of the costs involved.
639 Such proposed plan or proposed plan change may not be adopted
640 without the approval of the municipality, municipal services
641 taxing unit, special fire control district, or, if ~~where~~
642 required, the Legislature. Copies of the proposed plan or
643 proposed plan change and the actuarial impact statement of the
644 proposed plan or proposed plan change shall be furnished to the
645 division before the last public hearing on the proposal is held.
646 Such statement must also indicate whether the proposed plan or
647 proposed plan change is in compliance with s. 14, Art. X of the
648 State Constitution and those provisions of part VII of chapter
649 112 which are not expressly provided in this chapter.
650 Notwithstanding any other provision, only those local law plans

651 created by special act of legislation before May 27, 1939, are
652 deemed to meet minimum benefits and minimum standards.
653 (4) Notwithstanding any other provision, with respect to
654 any supplemental plan municipality:
655 (a) A local law plan and a supplemental plan may continue
656 to use their definition of compensation or salary in existence
657 on March 12, 1999.
658 (b) Section 175.061(1)(b) does not apply, and a local law
659 plan and a supplemental plan shall continue to be administered
660 by a board or boards of trustees numbered, constituted, and
661 selected as the board or boards were numbered, constituted, and
662 selected on December 1, 2000.
663 (5) The retirement plan setting forth the benefits and the
664 trust agreement, if any, covering the duties and
665 responsibilities of the trustees and the regulations of the
666 investment of funds must be in writing, and copies made
667 available to the participants and to the general public.
668 (6) In addition to the defined benefit plan component of
669 the local law plan, each plan sponsor must have a defined
670 contribution plan component within the local law plan by October
671 1, 2015, for noncollectively bargained service, upon entering
672 into a collective bargaining agreement on or after July 1, 2015,
673 or upon the creation date of a new participating plan. Depending
674 upon the application of subsection (1), a defined contribution
675 plan component may or may not receive any funding.

676 (7) Notwithstanding any other provision of this chapter, a
677 municipality, municipal services taxing unit, or special fire
678 control district that has implemented or proposed changes to a
679 local law plan based on the municipality's, municipal services
680 taxing unit's, or district's reliance on an interpretation of
681 this chapter by the Department of Management Services on or
682 after August 14, 2012, and before March 3, 2015, may continue
683 the implemented changes or continue to implement proposed
684 changes. Such reliance must be evidenced by a written collective
685 bargaining proposal or agreement, or formal correspondence
686 between the municipality, municipal services taxing unit, or
687 district and the Department of Management Services which
688 describes the specific changes to the local law plan, with the
689 initial proposal, agreement, or correspondence from the
690 municipality, municipal services taxing unit, or district dated
691 before March 3, 2015. Changes to the local law plan which are
692 otherwise contrary to minimum benefits and minimum standards may
693 continue in effect until the earlier of October 1, 2018, or the
694 effective date of a collective bargaining agreement that is
695 contrary to the changes to the local law plan.
696 Section 9. Section 175.381, Florida Statutes, is amended
697 to read:
698 175.381 Applicability.—This act shall apply to all
699 municipalities, municipal services taxing units, special fire
700 control districts, chapter plans, local law municipalities,

701 local law special fire control districts, or local law plans
702 presently existing or to be created under ~~pursuant to~~ this
703 chapter. Those plans presently existing under ~~pursuant to~~ s.
704 175.351 and not in compliance with ~~the provisions of~~ this act
705 must comply no later than December 31, 1999. However, the plan
706 sponsor of any plan established by special act of the
707 Legislature shall have until July 1, 2000, to comply with ~~the~~
708 ~~provisions of~~ this act, except as otherwise provided in this act
709 with regard to establishment and election of board members. ~~The~~
710 ~~provisions of~~ This act shall be construed to establish minimum
711 standards and minimum benefit levels, and nothing contained in
712 this act or in chapter 175 operates ~~shall operate~~ to reduce
713 presently existing rights or benefits of any firefighter,
714 directly, indirectly, or otherwise.
715 Section 10. Section 175.411, Florida Statutes, is amended
716 to read:
717 175.411 Optional participation.—A municipality, municipal
718 services taxing unit, or special fire control district may
719 revoke its participation under this chapter by rescinding the
720 legislative act, ordinance, or resolution which assesses and
721 imposes the taxes authorized in s. 175.101, and by furnishing a
722 certified copy of such legislative act, ordinance, or resolution
723 to the division. Thereafter, the municipality, municipal
724 services taxing unit, or special fire control district is ~~shall~~
725 ~~be~~ prohibited from participating under this chapter, and is

726 ~~shall~~ not ~~be~~ eligible for future premium tax moneys. Premium tax
727 moneys previously received shall continue to be used for the
728 sole and exclusive benefit of firefighters, or firefighters and
729 police officers if both are ~~where~~ included, and no amendment,
730 legislative act, ordinance, or resolution shall be adopted which
731 has ~~shall have~~ the effect of reducing the then-vested accrued
732 benefits of the firefighters, or firefighters and police
733 officers if both are included, retirees, or their beneficiaries.
734 The municipality, municipal services taxing unit, or special
735 fire control district shall continue to furnish an annual report
736 to the division as provided in s. 175.261. If the municipality,
737 municipal services taxing unit, or special fire control district
738 subsequently terminates the defined benefit plan, they shall do
739 so in compliance with ~~the provisions of~~ s. 175.361.
740 Section 11. Subsection (13) of section 191.006, Florida
741 Statutes, is amended to read:
742 191.006 General powers.—The district shall have, and the
743 board may exercise by majority vote, the following powers:
744 (13) To cooperate or contract with other persons or
745 entities, including other governmental agencies, as necessary,
746 convenient, incidental, or proper in connection with providing
747 effective mutual aid and furthering any power, duty, or purpose
748 authorized by this act. The district shall have, and the board
749 may exercise, all powers and duties provided in s. 163.01,
750 chapter 189, and this chapter, including such powers within or

751 without the district's boundary in cooperation with another
752 governmental agency when such agency shares such powers in
753 common with the district.
754 Section 12. Paragraph (c) of subsection (3) of section
755 633.422, Florida Statutes, is amended to read:
756 633.422 Firefighters; supplemental compensation.—
757 (3) FUNDING.—
758 (c) There is appropriated from the Police and
759 Firefighter's Premium Tax Trust Fund to the Firefighters'
760 Supplemental Compensation Trust Fund, which is created under the
761 Department of Revenue, all moneys which have not been
762 distributed to municipalities, municipal services taxing units,
763 and special fire control districts in accordance with s. 175.121
764 as a result of the limitation contained in s. 175.122 on the
765 disbursement of revenues collected under ~~pursuant to~~ chapter 175
766 or as a result of any municipality, municipal services taxing
767 unit, or special fire control district not having qualified in
768 any given year, or portion thereof, for participation in the
769 distribution of the revenues collected under ~~pursuant to~~ chapter
770 175. The total required annual distribution from the
771 Firefighters' Supplemental Compensation Trust Fund shall equal
772 the amount necessary to pay supplemental compensation as
773 provided in this section, provided that:
774 1. Any deficit in the total required annual distribution
775 shall be made up from accrued surplus funds existing in the

776 Firefighters' Supplemental Compensation Trust Fund on June 30,
777 1990, for as long as such funds last. If the accrued surplus is
778 insufficient to cure the deficit in any given year, the
779 proration of the appropriation among the counties,
780 municipalities, municipal services taxing units, and special
781 fire service taxing districts shall equal the ratio of
782 compensation paid in the prior year to county, municipal,
783 municipal services taxing unit, and special fire service taxing
784 district firefighters under ~~pursuant to~~ this section. This ratio
785 shall be provided annually to the Department of Revenue by the
786 division. Surplus funds that have accrued or accrue on or after
787 July 1, 1990, shall be redistributed to municipalities,
788 municipal services taxing units, and special fire control
789 districts as provided in subparagraph 2.
790 2. By October 1 of each year, any funds that have accrued
791 or accrue on or after July 1, 1990, and remain in the
792 Firefighters' Supplemental Compensation Trust Fund following the
793 required annual distribution shall be redistributed by the
794 Department of Revenue pro rata to those municipalities,
795 municipal services taxing units, and special fire control
796 districts identified by the Department of Management Services as
797 being eligible for additional funds under ~~pursuant to~~ s.
798 175.121(3)(b).
799 Section 13. This act shall take effect July 1, 2020.

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Roach offered the following:
3
4 **Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Section 1. Subsection (3) of section 175.041, Florida Statutes,
7 is amended to read:
8 175.041 Firefighters' Pension Trust Fund created;
9 applicability of provisions.—For any municipality, special fire
10 control district, chapter plan, local law municipality, local
11 law special fire control district, or local law plan under this
12 chapter:
13 (3) ~~The provisions of~~ This chapter applies ~~shall apply~~
14 only to municipalities organized and established pursuant to the
15 laws of the state and to special fire control districts. This
16 chapter does~~, and said provisions shall~~ not apply to the

17 unincorporated areas of any county or counties except with
18 respect to municipal services taxing units established in
19 unincorporated areas that are receiving fire protection service
20 from a municipality or a special fire control district and
21 special fire control districts that include unincorporated
22 areas. This chapter also does not~~, nor shall the provisions~~
23 ~~hereof~~ apply to any governmental entity whose firefighters are
24 eligible to participate in the Florida Retirement System.
25 (a) Special fire control districts that include, or
26 consist exclusively of, unincorporated areas of one or more
27 counties may levy and impose the tax and participate in the
28 retirement programs enabled by this chapter.
29 (b) With respect to the distribution of premium taxes, a
30 single consolidated government consisting of a former county and
31 one or more municipalities, consolidated pursuant to s. 3 or s.
32 6(e), Art. VIII of the State Constitution, is also eligible to
33 participate under this chapter. The consolidated government
34 shall notify the division when it has entered into an interlocal
35 agreement to provide fire services to a municipality within its
36 boundaries. The municipality may enact an ordinance levying the
37 tax as provided in s. 175.101. Upon being provided copies of the
38 interlocal agreement and the municipal ordinance levying the
39 tax, the division may distribute any premium taxes reported for
40 the municipality to the consolidated government as long as the
41 interlocal agreement is in effect.

42 (c) Any municipality or special fire control district that
43 has entered into an interlocal agreement to provide fire
44 protection services to any other incorporated municipality or to
45 a municipal services taxing unit in an unincorporated area, in
46 its entirety, for a period of 12 months or more may be eligible
47 to receive the premium taxes reported for such other
48 municipality or municipal services taxing unit. In order to be
49 eligible for such premium taxes, the municipality or special
50 fire control district providing the fire services must notify
51 the division that it has entered into an interlocal agreement
52 with another municipality or a county on behalf of a municipal
53 services taxing unit. The municipality receiving the fire
54 services, or a county on behalf of the municipal services taxing
55 unit receiving the fire services, may enact an ordinance levying
56 the tax as provided in s. 175.101. Upon being provided copies of
57 the interlocal agreement and the municipal ordinance levying the
58 tax, the division may distribute any premium taxes reported for
59 the municipality or municipal services taxing unit receiving the
60 fire services to the participating municipality or special fire
61 control district providing the fire services as long as the
62 interlocal agreement is in effect.
63 Section 2. Section 175.101, Florida Statutes, is amended
64 to read:
65 175.101 State excise tax on property insurance premiums
66 authorized; procedure.—For any municipality, special fire

67 control district, chapter plan, local law municipality, local
68 law special fire control district, or local law plan under this
69 chapter:
70 (1) Each municipality or special fire control district in
71 this state described and classified in s. 175.041, having a
72 lawfully established firefighters' pension trust fund or
73 municipal fund or special fire control district fund, by
74 whatever name known, providing pension benefits to firefighters
75 as provided under this chapter, or a county on behalf of the
76 municipal services taxing unit receiving fire protection
77 services from a municipality or a special fire control district,
78 may assess and impose on every insurance company, corporation,
79 or other insurer now engaged in or carrying on, or who shall
80 hereinafter engage in or carry on, the business of property
81 insurance as shown by the records of the Office of Insurance
82 Regulation of the Financial Services Commission, an excise tax
83 in addition to any lawful license or excise tax now levied by
84 each of the municipalities, municipal services taxing units, or
85 special fire control districts, respectively, amounting to 1.85
86 percent of the gross amount of receipts of premiums from
87 policyholders on all premiums collected on property insurance
88 policies covering property within the corporate limits of such
89 municipalities or within the legally defined boundaries of
90 municipal services taxing units or special fire control
91 districts, respectively. Whenever the boundaries of a special

92 fire control district that has lawfully established a
93 firefighters' pension trust fund encompass a portion of the
94 corporate territory of a municipality that has also lawfully
95 established a firefighters' pension trust fund or a municipal
96 services taxing unit receiving fire protection services from a
97 municipality participating under this chapter, that portion of
98 the tax receipts attributable to insurance policies covering
99 property situated both within the municipality or municipal
100 services taxing unit and the special fire control district shall
101 be given to the fire service provider. For the purpose of this
102 section, the boundaries of a special fire control district
103 include an area that has been annexed until the completion of
104 the 4-year period provided for in s. 171.093(4), or other
105 agreed-upon extension, or if a special fire control district is
106 providing services under an interlocal agreement executed in
107 accordance with s. 171.093(3). The agent shall identify the fire
108 service provider on the property owner's application for
109 insurance. Remaining revenues collected pursuant to this chapter
110 shall be distributed to the municipality or special fire control
111 district according to the location of the insured property.
112 (2) In the case of multiple peril policies with a single
113 premium for both the property and casualty coverages in such
114 policies, 70 percent of such premium shall be used as the basis
115 for the 1.85-percent tax.
116 (3) This excise tax shall be payable annually on March 1

117 of each year after the passage of an ordinance, in the case of a
118 municipality or municipal services taxing unit, or a resolution,
119 in the case of a special fire control district, assessing and
120 imposing the tax authorized by this section. Installments of
121 taxes shall be paid according to the provision of s.
122 624.5092(2)(a), (b), and (c).
123
124 This section also applies to any municipality consisting of a
125 single consolidated government which is made up of a former
126 county and one or more municipalities, consolidated pursuant to
127 the authority in s. 3 or s. 6(e), Art. VIII of the State
128 Constitution, and to property insurance policies covering
129 property within the boundaries of the consolidated government,
130 regardless of whether the properties are located within one or
131 more separately incorporated areas within the consolidated
132 government, provided the properties are being provided fire
133 protection services by the consolidated government. This section
134 also applies to any municipality or municipal services taxing
135 unit, as provided in s. 175.041(3)(c), which has entered into an
136 interlocal agreement to receive fire protection services from
137 another municipality or a special fire control district
138 participating under this chapter. The excise tax may be levied
139 on all premiums collected on property insurance policies
140 covering property located within the corporate limits of the
141 municipality or the legally defined boundaries of the municipal

142 services taxing unit receiving the fire protection services, but
143 will be available for distribution to the municipality or
144 special fire control district providing the fire protection
145 services.
146 Section 3. Section 175.111, Florida Statutes, is amended
147 to read:
148 175.111 Certified copy of ordinance or resolution filed;
149 insurance companies' annual report of premiums; duplicate files;
150 book of accounts.—For any municipality, special fire control
151 district, chapter plan, local law municipality, local law
152 special fire control district, or local law plan under this
153 chapter, whenever any municipality passes an ordinance or
154 whenever any special fire control district passes a resolution
155 establishing a chapter plan or local law plan assessing and
156 imposing the taxes authorized in s. 175.101, or any county on
157 behalf of a municipal services taxing unit passes an ordinance
158 imposing the taxes authorized in s. 175.101, a certified copy of
159 such ordinance or resolution shall be deposited with the
160 division. Thereafter every insurance company, association,
161 corporation, or other insurer carrying on the business of
162 property insurance on real or personal property, on or before
163 the succeeding March 1 after date of the passage of the
164 ordinance or resolution, shall report fully in writing and under
165 oath to the division and the Department of Revenue a just and
166 true account of all premiums by such insurer received for

167 property insurance policies covering or insuring any real or
168 personal property located within the corporate limits of each
169 such municipality or within the legally defined boundaries of
170 such municipal services taxing unit or special fire control
171 district during the period of time elapsing between the date of
172 the passage of the ordinance or resolution and the end of the
173 calendar year. The report shall include the code designation as
174 prescribed by the division for each piece of insured property,
175 real or personal, located within the corporate limits of each
176 municipality and within the legally defined boundaries of each
177 special fire control district and municipal services taxing
178 unit. The aforesaid insurer shall annually thereafter, on March
179 1, file with the Department of Revenue a similar report covering
180 the preceding year's premium receipts, and every such insurer at
181 the same time of making such reports shall pay to the Department
182 of Revenue the amount of the tax hereinbefore mentioned. Every
183 insurer engaged in carrying on such insurance business in the
184 state shall keep accurate books of accounts of all such business
185 done by it within the corporate limits of each such municipality
186 and within the legally defined boundaries of each such special
187 fire control district and municipal services taxing unit, and in
188 such manner as to be able to comply with the provisions of this
189 chapter. Based on the insurers' reports of premium receipts, the
190 division shall prepare a consolidated premium report and shall
191 furnish to any municipality, municipal services taxing unit, or

192 special fire control district requesting the same a copy of the
193 relevant section of that report.
194 Section 4. Section 175.411, Florida Statutes, is amended
195 to read
196 175.411 Optional participation.—A municipality, a county
197 on behalf of a municipal services taxing unit, or a special fire
198 control district may revoke its participation under this chapter
199 by rescinding the legislative act, ordinance, or resolution
200 which assesses and imposes the taxes authorized in s. 175.101,
201 and by furnishing a certified copy of such legislative act,
202 ordinance, or resolution to the division. Thereafter, the
203 municipality or special fire control district shall be
204 prohibited from participating under this chapter, and shall not
205 be eligible for future premium tax moneys. Premium tax moneys
206 previously received shall continue to be used for the sole and
207 exclusive benefit of firefighters, or firefighters and police
208 officers where included, and no amendment, legislative act,
209 ordinance, or resolution shall be adopted which shall have the
210 effect of reducing the then-vested accrued benefits of the
211 firefighters, retirees, or their beneficiaries. The municipality
212 or special fire control district shall continue to furnish an
213 annual report to the division as provided in s. 175.261. If the
214 municipality or special fire control district subsequently
215 terminates the defined benefit plan, they shall do so in
216 compliance with the provisions of s. 175.361.

217 Section 5. Subsection (13) of section 191.006, Florida
218 Statutes, is amended to read
219 191.006 General powers.—The district shall have, and the
220 board may exercise by majority vote, the following powers:
221 (13) To cooperate or contract with other persons or
222 entities, including other governmental agencies, as necessary,
223 convenient, incidental, or proper in connection with providing
224 effective mutual aid and furthering any power, duty, or purpose
225 authorized by this act. The district has, and the board may
226 exercise, all powers and duties provided in s. 163.01, chapter
227 189, and this chapter, including such powers within or without
228 the district's boundary, in cooperation with another
229 governmental agency when such agency shares such powers in
230 common with the district.
231 Section 6. This act shall take effect July 1, 2020.
232
233 ----------
234 **T I T L E A M E N D M E N T**
235 Remove lines 1-33 and insert:
236 A bill to be entitled
237 An act relating to intergovernmental programs; amending s.
238 175.041, F.S.; revising applicability of the Firefighters'
239 Pension Trust Fund; authorizing a municipality or special fire
240 control district that provides fire protection services to a
241 municipal services taxing unit under an interlocal agreement to

242 receive property insurance premium taxes; authorizing a county
243 to enact an ordinance levying a tax on behalf of a municipal
244 services taxing unit receiving fire protection services;
245 amending s. 175.101, F.S.; authorizing a county on behalf of a
246 municipal services taxing unit that enters into an interlocal
247 agreement for fire protection services with a municipality to
248 assess and impose an excise tax on property insurance premiums;
249 amending s. 175.111, F.S.; requiring a county on behalf of a
250 municipal services taxing unit to provide the Division of
251 Retirement of the Department of Management Services with a
252 certified copy of an ordinance assessing and imposing certain
253 taxes; amending s. 175.411, F.S.; authorizing a county on behalf
254 of a municipal services taxing unit to revoke its participation
255 and cease to receive property insurance premium taxes under
256 certain conditions; amending s. 191.006, F.S.; providing that an
257 independent special fire control district has, and that the
258 board of such district may exercise by majority vote, specified
259 powers; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1339 Housing
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee, Yarborough
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	12 Y, 0 N, As CS	Renner	Miller
2) Ways & Means Committee		Berg	Langston
3) Commerce Committee			

SUMMARY ANALYSIS

The bill addresses several housing issues related to development zoning and impact fees, the provision of affordable housing, and the taxation, regulation, ownership, and tenancy related to mobile homes and mobile home parks. Specifically, the bill:

- Authorizes local governments to approve the development of affordable housing on any parcel zoned for residential, commercial, or industrial use.
- Requires local governments to adopt an ordinance to allow accessory dwelling units in any area zoned for single-family residential use, except in an area of critical state concern.
- Requires the reporting of impact fee data within the annual financial audit report submitted to the Department of Financial Services.
- Requires the evaluation of additional local government contribution criteria within applications submitted for the State Apartment Incentive Loan Program funding.
- Transitions the "pilot" features of a workforce housing program into the Community Workforce Housing Loan Program, administered by the Florida Housing Finance Corporation (Florida Housing).
- Establishes biannual regional workshops for local elected officials serving on affordable housing advisory committees to identify and share best affordable housing practices.
- Adds data reporting within a State Housing Initiatives Partnership Program participant's submissions to Florida Housing about affordable housing applications approved and denied.
- Permits Florida Housing to withhold specified distributions from the Local Government Housing Trust Fund to fund the construction of transitional housing for persons aging out of foster care.
- Decreases the applicable sales tax to three percent on the sales price on the sale of new mobile homes.
- Clarifies provisions exempting mobile home park owners from the jurisdiction of the Public Service Commission when the park owners provide water and wastewater.
- Requires a mobile home park owner to amend the prospectus when expanding the park to include new lots and an expansion of more than 15 percent requires increasing facilities or amenities within a reasonable timeframe;
- Provides that a mobile home owner may be required to install improvements as disclosed in the prospectus.
- Permits a park owner to issue a 90-day lot rental increase notice to multiple tenants, within a single notice, regardless of the rental agreement anniversary date.
- Permits a mobile home park damaged or destroyed by natural forces to be rebuilt on the same site with the same density as was approved, permitted, or built before being damaged or destroyed.
- Allows a purchaser to assume the seller's prospectus but does not prohibit a park owner from offering the purchaser any approved prospectus.
- Revises mobile home homeowner association notifications, bylaws, and powers.
- Requires certain disputes between a mobile homeowner association and a member be submitted to the Division of Condominiums, Timeshares, and Mobile Homes for binding arbitration conducted pursuant to the statute and the division's adopted procedural rules.

The bill has fiscal impacts on state and local governments. *See* Fiscal Comments Section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Zoning and Impact Fees for Affordable Housing (Sections 1, 3 and 4)

Present Situation

Local Government Authority
The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.[1] Those counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.[2] Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.[3]

Comprehensive Plans and Land Use Regulation
Local governments regulate aspects of land development by enacting ordinances that address local zoning, rezoning, subdivision, building construction, landscaping, tree protection,[4] sign regulations or any other regulations controlling the development of land.[5] "Land development regulation" is defined to include a general zoning code, but does not include a zoning map, an action that results in zoning or rezoning of land, or any building construction standard adopted pursuant to and in compliance with the provisions of ch. 553, F.S., on Building Construction Standards.[6]

Section 163.3177, F.S., governs a locality's comprehensive plan which lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments.

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government first amends its comprehensive plan. Among the many components of a comprehensive plan is a land use element designating proposed future general distribution, location, and extent of the uses of land.[7] Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.[8]

State law requires a proposed comprehensive plan amendment to receive public hearings, with the first hearing held by the local planning board.[9] The local government must then hold an initial public hearing

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[1] Art. VIII, s.1(f), Fla. Const.
[2] Art. VIII, s.1(g), Fla. Const.
[3] Art. VIII, s.2(b), Fla. Const. *See also* s.166.021(1), F.S.
[4] S. 163.045, F.S., prohibits a local government from requiring a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the tree presents a danger to persons or property, as documented by a certified arborist or licensed landscape architect.
[5] *See* ss. 163.3164 and 163.3213, F.S. Pursuant to s. 163.3213, F.S., substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the local comprehensive plan.
[6] S.163.3213(1)(b), F.S.
[7] S. 163.3177(6)(a), F.S.
[8] *Id.* Section 163.3164(4), F.S., specifies the designation of an "agricultural enclave." Among other features, to be considered an agricultural enclave, a parcel must be owned by a single person, used for bona fide agricultural purposes, and must be surrounded by 75 percent by property that has existing or industrial, commercial, or residential development or property designated by the local government for such purposes.
[9] Ss. 163.3174(4)(a) and 163.3184, F.S.

regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies, including the Department of Economic Opportunity (DEO), the relevant Regional Planning Council, and adjacent local governments that request to participate in the review process.[10]

In 2011, the Legislature bifurcated the process for approving comprehensive plan amendments.[11] Most plan amendments are placed into the Expedited State Review Process, while plan amendments relating to large-scale developments are placed into the State Coordinated Review Process.[12] The two processes operate in much the same way; however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by DEO, rather than communicated directly to the permitting local government by each individual reviewing agency.[13]

Sections 125.66(4), and 166.041(3), F.S., outline regular and emergency ordinance adoption procedures for counties and municipalities. Ordinances or resolutions that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or ordinances or resolutions initiated by the local government that change the actual zoning map designation of a parcel or parcels of land, must follow additional enhanced procedures and requirements.

Affordable Housing

Affordable housing is generally defined in relation to the annual area median household income adjusted for family size. Section 420.0004, F.S., defines the term "affordable" for housing purposes to mean that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of the median adjusted gross annual income for qualifying households.[14] Eligible households are determined as follows:

- Extremely-low-income households, i.e., total annual household income does not exceed 30 percent of the median annual adjusted gross income for households within the state;[15]
- Very-low-income households, i.e., total annual gross household income does not exceed 50 percent of the median annual income within the state or the metropolitan statistical area, whichever is greater;[16]
- Low-income households, i.e., total annual gross household income does not exceed 80 percent of the median annual income within the state or the area, whichever is greater;[17]
- Moderate-income households, i.e., total annual gross household income does not exceed 120 percent of the median annual income within the state or the area, whichever is greater.[18]

Statutory Guidance on County and Municipal Affordable Housing

Sections 125.01055 and 166.04151, F.S., authorize a county or municipality, notwithstanding any other provision of law, to adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.

Inclusionary housing ordinances (sometimes called inclusionary zoning ordinances) are land use regulations that require affordable housing units to be provided in conjunction with the development of market rate units. The intent of these ordinances is to increase the production of affordable housing in

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[10] S. 163.3184, F.S.
[11] Chapter 2011-139, s. 17, Laws of Fla.
[12] *Id.*
[13] S. 163.3184(3) and (4), F.S.
[14] Current limitations are found in the 2019 Income Limits and Rent Limits document producted by the Florida Housing Finance Corporation, available at https://www.floridahousing.org/owners-and-managers/compliance/income-limits (last visited February 14, 2020)
[15] S. 420.0004(9), F.S. Florida Housing Finance Corporation may adjust this amount annually by rule to provide that in lower income counties, extremely low income may exceed 30 percent of area median income and that in higher income counties, extremely low income may be less than 30 percent of area median income.
[16] S. 420.0004(17), F.S.
[17] S. 420.0004(11), F.S.
[18] S. 420.0004(12), F.S.

general and to increase the production in specific geographic areas that might otherwise not include affordable housing.[19]

Chapter 2019-165, Laws of Fla., (2019 Act) amended ss. 125.01055 and 166.04151, F.S., to provide that a local inclusionary housing ordinance requiring a developer to provide a specified number of affordable housing units or requiring a developer to contribute to a housing fund must provide incentives to fully offset all costs to the developer of its affordable housing contribution. The developer offset provision does not apply in areas of critical state concern in Monroe County and the City of Key West.

Local Government Impact Fees[20]

Pursuant to home rule authority, counties and municipalities may impose proprietary fees,[21] regulatory fees, and special assessments[22] to pay the cost of providing a facility or service or regulating an activity. As one type of regulatory fee, impact fees are charges imposed by local governments against new development to provide for capital facilities' costs made necessary by such growth.[23] Impact fee calculations vary from jurisdiction to jurisdiction and upon the type of fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee.

Section 163.31801(3), F.S., provides requirements and procedures for the adoption of an impact fee. An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum:

- Require that the calculation of the impact fee be based on the most recent and localized data;
- Provide for accounting and reporting of impact fee collections and expenditures. If a local government imposes an impact fee to address its infrastructure needs, the entity must account for the revenues and expenditures of such impact fee in a separate accounting fund;
- Limit administrative charges for the collection of impact fees to actual costs; and
- Require that notice be provided at least 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee.

The 2019 Act amended s. 163.31801, F.S., to codify the 'dual rational nexus test' for impact fees, as articulated in case law. This test requires an impact fee to be proportional and have a reasonable connection, or rational nexus, between 1) the proposed new development and the need and the impact of additional capital facilities, and 2) the expenditure of funds and the benefits accruing to the proposed new development.[24] Local governments are prohibited from requiring the payment of impact fees prior to issuing a building permit for the subject property.[25]

Additionally, the 2019 Act established that impact fee funds must be earmarked for capital facilities that benefit new residents and may not be used to pay existing debt unless specific conditions are met.[26] Provisions also authorized a local government to provide an exception or waiver for an impact fee for affordable housing. If a local government provides such an exception or waiver, it is not required to use

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[19] *Ross, J.* and *Outka, U.,* The Florida Housing Coalition, *Inclusionary Housing: A Challenge Worth Taking*, p. 7, https://www.flhousing.org/wp-content/uploads/2012/05/Inclusionary-Housing-A-Challenge-Worth-Taking.pdf (last visited Jan. 23, 2020).
[20] Office of Economic and Demographic Research, The Florida Legislature, *2019 Local Government Financial Handbook*, p. 11, http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf (last visited Jan. 23, 2020).
[21] *Id*. Examples of proprietary fees include admissions fees, franchise fees, user fees, and utility fees.
[22] *Id* at 17. Special assessments are typically used to construct and maintain capital facilities or to fund certain services.
[23] *See supra* note 19.
[24] S. 163.31801(3)(f) and (g), F.S.
[25] S. 163.31801(3)(e), F.S.
[26] S. 163.31801(3)(h) and (i), F.S.

any revenues to offset the impact.[27] The impact fee provisions do not apply to water and sewer connection fees.[28]

Local Government Financial and Economic Status Reporting
Local governments are accountable for the manner in which they spend public funds, and the submission of financial reports required by state law is one method of demonstrating accountability. Section 218.39, F.S., requires the completion of an annual financial audit of accounts and records within nine months after the end of the fiscal year for counties, district school boards, charter schools, and charter technical career centers and certain municipalities and special districts. The statute requires filing of these annual financial audit reports with the State of Florida's Auditor General.

Section 218.32, F.S., requires counties, municipalities, and special districts to complete and submit to the Florida Department of Financial Services (DFS) a copy of its annual financial report (AFR) for the previous fiscal year no later than nine months after the end of the fiscal year. The AFR is not an audit but rather a unique financial document completed using a format prescribed by DFS.[29]

The Bureau of Local Government within DFS has created a web-based AFR system called Local Government Electronic Reporting (LOGER) where local government entities complete and electronically submit AFRs.[30] DFS personnel verify an entity's data entered in LOGER by comparing the data to the financial statements included in the submitted audit report, or with other prescribed information from those entities not subject to the audit requirement and contact the entities for clarification when the comparisons yield significant differences.[31]

In addition to the above local government financial reporting, ch. 2019-56, Laws of Fla, amended ss. 129.03 and 166.241, F.S., to require counties and municipalities, respectively, report certain economic status information to the Office of Economic and Demographic Research. This includes information on government spending and debt per resident, median income, average local government employee salary, percentage of budget spent on employee salaries and benefits, and the number of taxing districts.

Effect of the Bill

The bill amends ss. 125.01055 and 166.04151, F.S., to authorize a county commission and the governing body of a municipality, respectively, to approve the development of affordable housing on any parcel zoned for residential, commercial, or industrial use, notwithstanding any other law or local ordinance or regulation to the contrary.

The bill amends s. 163.31801, F.S., to require the reporting of impact fee data within the annual financial report specified under s. 218.32, F.S. The local government must report the specific purpose of an impact fee and the associated infrastructure need the fee meets; a description of the impact fee schedule policy and fee calculation methods; the amount assessed for each purpose and type of dwelling; and the total amount of impact fees charged by type of dwelling.

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[27] S. 163.31801(8), F.S.
[28] S. 163.31801(9), F.S.
[29] See Department of Financial Services Bureau of Financial Reporting, *Uniform Accounting System Manual for Florida Local Governments* (2014), https://www.myfloridacfo.com/Division/AA/Manuals/2014UASManual-7-31-15_FINAL.pdf (last visited Jan. 23, 2020).
[30] LOGER, https://apps.fldfs.com/LocalGov/Reports/ (last visited Jan. 23, 2020).
[31] *See* Florida Auditor General, *Local Government Financial Reporting System: Performance Audit Report 2019-028* (Sep. 2019), https://flauditor.gov/pages/pdf_files/2019-028.pdf (last visited Jan. 23, 2020).

Accessory Dwelling Units (Section 2)

Present Situation

An accessory dwelling unit (ADU) is an ancillary or secondary living unit that has a separate kitchen, bathroom, and sleeping area existing either within the same structure, or on the same lot, as the primary dwelling unit.[32] The Legislature finds that encouraging local governments to permit ADUs to increase the availability of affordable rentals serves a public purpose.[33] A local government may adopt an ordinance allowing ADUs in any area zoned for single-family residential use based upon a finding that there is a shortage of affordable rentals in its jurisdiction.[34] Each ADU allowed by an ordinance must count towards the affordable housing component of the housing element in the local government's comprehensive plan.[35] An application for a building permit to construct such ADUs must include an affidavit which attests that the unit will be rented at an affordable rate to an extremely-low-income, very-low-income, low-income, or moderate-income person or persons.[36]

In 2019, the Florida Housing Coalition, the entity currently providing technical assistance and training for the Catalyst Program under s. 420.531, F.S., published the *Accessory Dwelling Unit Guidebook.*[37] The stated intent of the Guidebook is to address the challenges and benefits a community might face as it considers allowing the implementation of ADUs and presents a range of alternatives for local governments and other stakeholders to consider and evaluate. Among other data points, the Guidebook found that:

- Of Florida's 67 counties, 16 did not address ADUs in their land development codes; and
- Of the 15 most populous cities in Florida, 11 of them explicitly allow ADUs in single-family districts.

Effect of the Bill

The bill provides legislative finding that it serves an important public purpose to require (rather than encourage) the permitting of ADUs in single-family residential areas. A local government must (rather than may) adopt an ordinance to allow ADUs in any area zoned for single family residential use, except in an area of critical state concern where the state caps the number of new housing units which may be built within a year. The required ordinance would not be conditioned upon a finding that there is a shortage of affordable rentals within the local jurisdiction.

State Apartment Incentive Loan Program: Local Government Contributions (Section 12)

Present Situation

The State Apartment Incentive Loan (SAIL) Program[38] provides low-interest loans on a competitive basis to affordable housing developers. SAIL is funded through a statutory distribution of documentary stamp tax revenues, which are deposited into the State Housing Trust Fund. This money often serves to bridge the gap between the primary financing and the total cost of the development. SAIL dollars are available to individuals, public entities, nonprofit organizations, or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very low income

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[32] S.163.31771(2)(a), F.S.
[33] S. 163.31771(1), F.S.
[34] S.163.31771(3), F.S.
[35] S. 163.31771(5), F.S.
[36] S. 163.31771(4), F.S. The parameters defining the various income designations are specified in s 420.0004, F.S.
[37] *See* Florida Housing Coalition, *Accessory Dwelling Unit Guidebook,* (May 2019) https://www.flhousing.org/wp-content/uploads/2019/08/ADU-Guidebook.pdf (last visited Jan. 23, 2020).
[38] *See* s. 420.5087, F.S., and Florida Housing Finance Corporation, *State Apartment Incentive Loan, Background*, for information cited in this section, http://www.floridahousing.org/programs/developers-multifamily-programs/state-apartment-incentive-loan (last visited Jan. 23, 2020).

individuals and families. In most cases, the SAIL loan cannot exceed 25 percent of the total development cost and can be used in conjunction with other state and federal programs.

Florida Housing Finance Corporation (Florida Housing) administers the SAIL program and is required to establish a review committee for the competitive evaluation and selection of applications submitted. The evaluation criteria include local government contributions and local government comprehensive planning and activities that promote affordable housing.[39]

Effect of the Bill

The bill amends provisions of the SAIL Program to require the evaluation of additional components within the review and selection process of applications submitted for funding. The additional components relate to criteria surrounding local government contributions, including policies that promote access to public transportation, reduce the need for on-site parking, and expedite permits for affordable housing projects.

Community Workforce Housing Innovation Pilot Program (Section 13)

Present Situation

The Community Workforce Housing Innovation Pilot Program[40] (CWHIP) was created to provide affordable rental and home ownership community workforce housing for essential services personnel with medium incomes in high-cost and high-growth counties. Designed to use regulatory incentives and state and local funds to promote local public-private partnerships and to leverage government and private sources, Florida Housing administered the program in 2006[41] and 2007.[42]

CWHIP targeted households earning higher incomes than traditionally served through other affordable housing programs to create homeowner or rental housing for persons such as teachers, firefighters, healthcare providers and others as defined by local governments. Households earning up to 140 percent of AMI could be served through the program with that provision rising up to 150 percent of AMI in the Florida Keys.[43]

CWHIP provided priority funding consideration to projects in counties where the disparity between the AMI and the median sales price for a single family home was greatest. Priority funding consideration was specified where:[44]

- The local jurisdiction established local incentives such as expedited reviews of development orders and permits and supported development near transportation hubs;
- Financial strategies like tax increment financing were utilized; and
- Projects set aside at least 80 percent of units for workforce housing and at least 50% for essential services personnel.

CWHIP loans were awarded with a 1 to 3 percent interest rate and could be forgiven where long-term affordability was provided and where at least 80 percent of the units are set aside for workforce housing and at least 50 percent of the units are set aside for essential services.[45]

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[39] S.420.5087(6)(c), F.S.
[40] Ch. 2006-69, Laws of Fla.
[41] *Id.* at s. 33
[42] Specific Appropriations 1694, ch. 2007-72, Laws of Fla. Fiscal Year 2006 and 2007 appropriations were nonrecurring and no additional funds have been appropriated since.
[43] S. 420.5095(3)(a), F.S.
[44] S. 420.5095(8), F.S.
[45] S. 420.5095(11), F.S.

Florida Housing administered two rounds of funding for CWHIP: $50 million in October of 2006 and $62.4 million in December of 2007.[46]

Effect of the Bill

The bill transitions the "pilot" features of a workforce housing program into the Community Workforce Housing Loan Program, administered by Florida Housing. Workforce housing is defined as housing affordable to persons of families whose total annual income does not exceed 80 percent of the area median income or 120 percent of the area median income, adjusted for household size in specified areas of critical concern. Florida Housing must establish a loan application process pursuant to SAIL Program provisions under s. 420.5087, F.S., and award loans at a 1 percent interest rate for a term not to exceed 15 years. Projects must be given priority if they set aside at least 50 percent of units for workforce housing.

Affordable Housing Workshops for Locally Elected Officials utilizing Catalyst and SHIP (Sections 14 and 17)

Present Situation

Affordable Housing Catalyst Program
Section 420.531, F.S., directs Florida Housing to operate the Affordable Housing Catalyst Program (Catalyst Program) to provide specialized technical support to local governments and community-based organizations to implement the HOME Investment Partnership Program, State Housing Initiatives Partnership Program (SHIP), and other affordable housing programs.[47] Florida Housing currently contracts with the Florida Housing Coalition to provide Catalyst Program training and technical assistance.[48]

The Florida Housing Coalition's technical assistance team consists of a geographically dispersed network of personnel providing on-site and telephone/e-mail technical assistance as well as training through workshops and webinars.[49] This technical assistance supports local governments and nonprofit organizations and includes:

- Leveraging program dollars with other public and private funding sources;
- Working effectively with lending institutions;
- Implementing regulatory reform;
- Training for boards of directors;
- Implementing rehabilitation and emergency repair programs;
- Assisting with the creation of fiscal and program tracking systems; and
- Meeting compliance requirements of state and federally funded housing programs.

State Housing Initiatives Partnership Program

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[46] *See* Florida Housing Finance Corporation, *2007 Annual Report*, p. 21, and *2008 Annual Report,* p. 11, http://www.floridahousing.org/docs/default-source/data-docs-and-reports/annual-reports/2007AnnualReport.pdf and http://www.floridahousing.org/docs/default-source/data-docs-and-reports/annual-reports/2008AnnualReport_CDfile.pdf (last visited Jan. 23, 2020).
[47] To the maximum extent feasible, the entity to provide the necessary expertise must be recognized by the Internal Revenue Service as a nonprofit tax-exempt organization.
[48] Contract for Affordable Housing Catalyst Services between Florida Housing Finance Corporation and the Florida Housing Coalition, Inc., (July 1, 2019) https://www.floridahousing.org/docs/default-source/legal/contracts/2019/014-2019---the-florida-housing-coalition-inc---affordable-housing-catalyst-program-services.pdf?sfvrsn=c09dea7b_2 (last visited Jan 23, 2020).
[49] The 2019/2020 Catalyst Training Schedule, https://www.floridahousing.org/docs/default-source/programs/special-programs/catalyst/training-schedule-catalyst-2019-2020.pdf?sfvrsn=2 (last visited Jan. 23, 2020). A link to the Florida Housing Coalition's *Work Shop and Webinar Calendar* is available at *https://www.flhousing.org/events/list/?tribe_paged=2&tribe_event_display=list* (last visited Jan. 23, 2020).

Administered by Florida Housing, the SHIP Program provides funds to all 67 counties and 52 Community Development Block Grant entitlement cities on a population-based formula to finance and preserve affordable housing based on locally adopted housing plans.[50] The program targets very-low, low, and moderate-income families. SHIP is funded through a statutory distribution of documentary stamp tax revenues that are deposited into the Local Government Housing Trust Fund.

Subject to specific appropriation, funds are distributed quarterly to local governments participating in the program.[51] Funds are expended according to each local government's adopted Local Housing Assistance Plan (LHAP), which details the housing strategies for that particular government.[52] Local governments submit their LHAPs to Florida Housing for review to ensure that they meet the broad statutory guidelines and the requirements of the program rules. Florida Housing must approve an LHAP before a local government may receive SHIP funding for the applicable years.

SHIP Incentive Strategies and Advisory Committee

Within 12 months of adopting a LHAP, each participating local government must amend the plan to include local housing incentive strategies.[53] The strategies must:

- Assure that permits for affordable housing projects are expedited;
- Establish an ongoing process to review local policies, ordinances, regulations, and plan provisions that actually increase the cost of housing; and
- Include a schedule for implementing the incentive strategies.[54]

Local governments must appoint members to an Affordable Housing Advisory Committee (AHAC) that triennially reviews the established policies and procedures, ordinances, land development regulations, and adopted local government comprehensive plan.[55] The AHAC is comprised of local citizens representing a range of affordable housing stakeholders.[56] At a minimum, each AHAC must submit a report to the local governing body on certain affordable housing incentives including:[57]

- The processing of approvals of development orders or permits for affordable housing.
- The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.
- The allowance of flexibility in densities for affordable housing.
- The allowance of affordable accessory residential units in residential zoning districts.
- The reduction of parking and setback requirements for affordable housing.

Local governments that receive the minimum allocation under SHIP[58] must perform the initial incentives review but may elect to not perform the subsequent triennial reviews.

Statutorily Authorized Affordable Housing Study Groups

In 1986, the Affordable Housing Study Commission (Commission) was created to evaluate affordable housing policy issues and programs.[59] This commission is charged with recommending public policy changes to the Governor and Legislature to stimulate community development and revitalization, as well as promoting the production, preservation and maintenance of decent, affordable housing for all Floridians. The Commission is comprised of 21 members meeting specific statutory criteria, all of whom

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[50] *See* ss. 420.907-420.9089, F.S.
[51] S. 420.9073, F.S.
[52] S.420.9075, F.S.
[53] S. 420.9076(1), F.S.
[54] S. 420.9071(16), F.S.
[55] S. 420.9076(4), F.S.
[56] S.420.9076(2), F.S.
[57] S. 420.9076(4), F.S.
[58] Pursuant to s. 420.9073(3), F.S., the minimum local housing distribution is $350,000.
[59] Chapter 86-192 Laws of Fla.

are appointed by the Governor.[60] Florida Housing provides administrative support to the Commission, but the Commission has not received funding or gubernatorial appointments since 2008.[61]

In 2017, the Legislature created a statewide Affordable Housing Workgroup (Workgroup).[62] The 14-member body consisted of current and previously elected state and local officials as well as stakeholders from the private and non-profit affordable housing community. The Workgroup's final report was submitted to the Governor and Legislature and provided findings and recommendations addressing the state's affordable housing needs, including strategies and pathways for low-income housing in the state.[63]

Effect of the Bill

The bill amends s. 420.531, F.S., to establish biannual regional workshops for locally elected officials serving on affordable housing advisory committees as provided for SHIP in s. 420.9076, F.S. The entity providing statewide training and technical assistance for the Catalyst Program will administer and conduct the workshops with the intent of facilitating peer-to-peer identification and sharing of best affordable housing practices. Workshops must be conducted through teleconferencing or other technological means. The entity providing the statewide training and technical assistance must provide annual reports summarizing the deliberations, actions, and recommendations of each region, as well as attendance records of locally elected officials, to the President of the Senate, the Speaker of the House of Representatives, and Florida Housing by March 31 of the following year.

This section also includes SAIL among the programs listed for which Catalyst Program may provide technical support.

The bill amends s. 420.9076, F.S., to modify requirements of SHIP affordable housing advisory committees. The new provisions include ensuring that one locally elected official from each participating SHIP county or municipality serves on the advisory committee. This official, or a locally elected designee, must attend biannual workshops on affordable housing best practices. If a locally elected official fails to attend three consecutive regional workshops, Florida Housing may withhold the participating SHIP entity's funds pending the official's attendance at the next regularly scheduled biannual meeting.

The section also requires annual, rather than triennial, affordable housing advisory committee reviews of local policies and provisions affecting affordable housing. An annual report of advisory committee reviews and recommendations must be submitted to the local governing body and to the entity providing statewide training and technical assistance for the Catalyst Program. In addition to currently provided information, the report must now also include information on all allowable fee waivers for the development or construction of affordable housing.

Local Housing Distributions for Persons Aging out of Foster Care (Section 15)

Present Situation

Affordable Housing Funding for Special Needs Populations
Section 420.0004(13), F.S., defines a person with special needs as:

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[60] S. 420.609, F.S.
[61] Commission Annual Reports submitted from 1987-2008, http://apps.floridahousing.org/StandAlone/AHSC/AHSC-AnnualReports.htm (last visited Jan. 23, 2020).
[62] Chapter 2017-71, s. 46, Laws of Fla. Legislation creating the workgroup designated Florida Housing Finance Corporation as the administering entity.
[63] The Workgroup's Final Report, meeting agendas, research materials and other information is available at https://www.floridahousing.org/about-florida-housing/workgroup-on-affordable-housing (last visited Jan. 24, 2020).

an adult person requiring independent living services in order to maintain housing or develop independent living skills and who has a disabling condition; a young adult formerly in foster care who is eligible for services under s. 409.1451(5); a survivor of domestic violence as defined in s. 741.28; or a person receiving benefits under the Social Security Disability Insurance (SSDI) program or the Supplemental Security Income (SSI) program or from veterans' disability benefits.

Each local government participating in the SHIP Program must use a minimum of 20 percent of its local housing distribution to serve persons with special needs.[64] A local government must certify it will meet this requirement through existing approved strategies in its LHAP.

Section 420.507(48), F.S., requires Florida Housing to reserve up to 5 percent of certain annual allocations for high-priority affordable housing projects for veterans and their families, and other special needs populations. Florida Housing must reserve an additional 5 percent of each allocation for affordable housing projects directed to persons with disabling conditions.

According to the statewide 2019 Rental Market Study, an estimated 104,273 cost burdened renter households receive disability-related Social Security, SSI,[65] and veterans' benefits statewide.[66] Based on service use, an estimated 7,836 survivors of domestic violence and 2,574 youth exiting foster care are in need of affordable housing.[67]

Services and Support for Persons Aging Out of Foster Care
The Department of Children and Families (DCF) is responsible for administering an array of independent living services to eligible young adults ranging in ages 18-22 (not yet 23), including supports in making the transition to self-sufficiency.[68]

Extended Foster Care (EFC) provides eligible young adults the option of remaining in foster care until the age of 21 or until the age of 22 if they have a disability. EFC is a voluntary program that requires the young adult to agree to participate in school, work, or a work training program in accordance with federal and state guidelines. Exceptions and accommodations are made for young adults with a documented disability. [69]

Effect of the Bill

The bill authorizes Florida Housing to withhold up to five percent of annual Local Government Housing Trust Fund distributions to eligible SHIP entities for the construction of transitional housing for persons aging out of foster care. Funds may not be used for the design or planning of transitional housing and the housing must be constructed on campus. Florida Housing must consult with the DCF on criteria for such housing. Any withheld funds not distributed or committed by the end of the year fiscal year must be distributed utilizing existing calculation formulas.

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[64] S. 420.9075(5)(d), F.S.
[65] Supplemental Security Income. *See generally* 42 U.S.C. §§1381-1385 (Title XVI of the Social Security Act).
[66] Shimberg Center for Housing Studies, University of Florida, 2019 Rental Market Study, p. 2 (May 2019), http://www.shimberg.ufl.edu/publications/RMS_2019.pdf (last visited Jan. 23, 2020). The Rental Market Study defines 'cost burdened' to mean the household is paying at least 40 percent of income toward gross rent. *See* p. 5.
[67] *Id.*
[68] Ss. 39.6251 & 409.1451, F.S.
[69] Department of Children and Families, *Independent Living Services Annual Report* (Jan. 31, 2019), https://www.myflfamilies.com/service-programs/child-welfare/docs/2019LMRs/Independent%20Living%20Services%202018%20Annual%20Report.pdf (last visited Jan. 23, 2020).

Annual SHIP Entity Reporting Submissions to Florida Housing (Section 16)

Present Situation

Each local government participating in SHIP must annually submit a report of its affordable housing programs and accomplishments to Florida Housing. The local government's chief elected official or his or her designee must certify the report as accurate and complete. Among the many items included in the report are:[70]

- The number of households served by income category, age, family size, and race, and data regarding any special needs populations.
- The number of units and the average cost of producing units under each local housing assistance strategy.
- By income category, the number of mortgages made, the average mortgage amount, and the rate of default.
- A description of the status of implementation of each local housing incentive strategy.

After reviewing the report, if Florida Housing determines a violation of the criteria for a LHAP may have occurred, or that an eligible sponsor or eligible person has violated the applicable award conditions, Florida Housing reports the violation to its compliance monitoring agent and the Executive Office of the Governor.[71] If a violation is deemed to have occurred, the distribution of program funds to the local government must be suspended until the violation is corrected.[72]

Effect of the Bill

The bill amends s. 420.9075, F.S., to require a SHIP entity's annual program reporting to Florida Housing include data on the number of affordable housing applications submitted, the number approved, and the number denied.

Mobile Homes

Chapter 723, F.S., the "Florida Mobile Home Act" (Mobile Home Act) addresses the unique relationship between a mobile home owner and a mobile home park owner.[73] The provisions in the Mobile Home Act apply to residential tenancies where a mobile home is placed upon a lot that is rented or leased from a mobile home park that has 10 or more lots offered for rent or lease.[74]

The courts recognize the relationship between the mobile home park owner and the mobile home owner is not simply one of landlord and tenant but "a hybrid type of property relationship" in which both have "basic property rights which must reciprocally accommodate and harmonize."[75] This is due to the very nature of the mobile home:

> Mobile homes come to rest in established parks, the wheels are generally removed, they are anchored to the ground, because of forces of the wind, connections with electricity, water and sewerage are made, awnings are frequently attached, and to a large degree they lose their mobility except, unless, and until the wheels are restored, disruption of electrical, water and sewer connections is had and a certain amount of dismantling and crating is had, all at a substantial expense of the owner of the mobile home who had bought such home with the expectation of being able to remain in the park for a not unreasonable time so long as he abides

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[70] S. 420.9075(10), F.S.
[71] S. 420.9075(13), F.S.
[72] *Id.*
[73] S.723.004, F.S.
[74] S. 723.002(1), F.S. The Mobile Home Act does not apply to tenancies in which both the mobile home and the mobile home lot are rented or leased by the mobile home resident.
[75] *Stewart v. Green*, 300 So. 2d 889, 892 (Fla. 1974).

> by all the reasonable regulations established by the park owner. The removal from one park to another becomes more than a mere hitching to a truck or tractor and pulling it away. To a large degree, mobile homes are occupied by people in the lower income brackets who cannot spend several hundred dollars at the mere whim of a lessor park.[76]

Mobile homes are not "mobile" in the same sense as are recreational vehicles or camper trailers.[77] "Because of the difficulties inherent in moving the home from one settled location to another...it is hard to imagine a situation where the park owner and the tenants are in an equal bargaining position on rent increases."[78] To better balance the interests of the park owner and the home owner, the Legislature enacted laws culminating in the Mobile Home Act[79]

Chapter 723.003, F.S., provides the following relevant definitions:

- "Mobile home park" or "park" means a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.[80]
- "Mobile home owner," "mobile homeowner," "home owner," or "homeowner" means a person who owns a mobile home and rents or leases a lot within a mobile home park for residential use.[81]

Mobile home parks are regulated by the Division of Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation. A mobile home park owner must pay to the division, on or before October 1 of each year, an annual fee of $4 for each mobile home lot within the mobile home park owned.[82] If the fee is not paid by December 31 a penalty of 10 percent of the amount due must be assessed. Additionally, if the fee is not paid, the park owner does not have standing to maintain or defend any action in in court until the amount due, plus any penalty, is paid.[83] Additionally, a surcharge of $1 is levied on each annual fee. The surcharge collected must be deposited in the Florida Mobile Home Relocation Trust Fund.[84]

Mobile Home Sales Tax (Section 5)

Present Situation

The sales tax on tangible personal property is six percent of the sales price when sold at retail.[85] Aircrafts, boats, and mobile homes are also assessed a sales tax of six percent of the retail sale price.[86]

A mobile home may be taxed as real property and not as tangible property, if a taxpayer purchases a mobile home that is then affixed permanently to land owned by the taxpayer.[87] The taxpayer must apply to the local property appraiser for a declaration of real property. As part of the application for declaration of real property, the taxpayer must have the local property appraiser certify that the mobile home is permanently affixed to land owned by the taxpayer.[88]

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[76] *Palm Beach Mobile Homes v. Strong*, 300 So. 2d 881, 886 (Fla. 1974).
[77] *Stewart v. Green, id.*
[78] *Belcher v. Kier,* 558 So.2d 1039, 1042 (Fla. 2d DCA 1990) (citation omitted).
[79] *Herrick v. Florida Dept. of Business Regulation*, 595 So.2d 148, 152 (Fla. 1st DCA 1992).
[80] S. 723.003(12), F.S.
[81] S. 723.003(11), F.S.
[82] S. 723.007(1), F.S.
[83] *Id.*
[84] S. 723.007(2), F.S.
[85] S. 212.05(1)(a)1.a., F.S.
[86] S. 212.05(1)(b)1.b., F.S.
[87] S. 320.015, F.S.
[88] *See* ss. 212.06(14)(a) and 320.0815, F.S.

The Department of Highway Safety and Motor Vehicles (DHSMV) must provide "RP" stickers to tax collectors for use by the registered owner of a mobile home or recreational vehicle to affix to such vehicle when the vehicle is taxed as real property. The "RP" sticker is used in lieu of a license plate.[89]

Effect of the Bill

The bill amends s. 212.05, F.S., to decrease the applicable sales tax to three percent of the sales price on the sale of new mobile homes.

Mobile Home Dealer Display Requirements (Section 6)

Present Situation

A mobile home dealer must hold a license issued by the DHSMV.[90] The term "dealer" means "any person engaged in the business of buying, selling, or dealing in mobile homes or offering or displaying mobile homes for sale."[91] The term also includes a mobile home broker.[92] Any person who buys, sells, deals in, or offers or displays for sale, or who acts as the agent for the sale of, one or more mobile homes in any 12-month period is prima facie presumed to be a dealer. The term "dealer" does not include banks, credit unions, or finance companies that acquire mobile homes as an incident to their regular business and does not include mobile home rental and leasing companies that sell mobile homes to dealers licensed under this section.[93]

The place of business of the mobile home dealer must be at a permanent location, not a tent or a temporary stand or other temporary quarters. The location of the place of business must afford sufficient unoccupied space to store all mobile homes offered and displayed for sale.[94]

Effect of the Bill

The bill amends s. 320.77, F.S., to remove the requirement that a place of business of a mobile home dealer must afford sufficient unoccupied space to store all mobile homes offered and displayed for sale. Under the bill, the place of business of a mobile home dealer must have sufficient space to display a manufactured home as a model home.

Recreational Vehicle Dealers (Section 7)

Present Situation

A recreational vehicle dealer must hold a license issued by the DHSMV.[95] The term "dealer" means any person engaged in the business of buying, selling, or dealing in recreational vehicles or offering or displaying recreational vehicles for sale. The term does not include banks, credit unions, and finance companies that acquire recreational vehicles as an incident to their regular business and does not include mobile home rental and leasing companies that sell recreational vehicles to dealers licensed under s. 320.77, F.S.

A recreational vehicle is a type of motor vehicle primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.[96] The basic "entities" of a recreational vehicle include the "park trailer," which is a

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[89] S. 320.0815(2), F.S.
[90] S. 320.77(2), F.S.
[91] S. 320.77(1)(a), F.S.
[92] *See* s. 320.77(1)(b), F.S., defining the term "mobile home broker."
[93] S. 320.77(1)(a), F.S.
[94] S. 320.77(3)(h), F.S.
[95] S. 320.771(2), F.S.
[96] *See* s. 320.01(1) (b), F.S.

transportable unit that has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances.[97]

A recreational vehicle dealer must be insured under a garage liability insurance policy that includes a minimum $25,000 combined single-limit liability coverage, including bodily injury and property damage protection, and $10,000 personal injury protection.[98]

Effect of the Bill

The bill amends s. 320.771(3)(j), F.S., to exempt a recreational vehicle dealer from the requirement to be insured under a garage liability insurance policy if the dealer sells only park trailers.

Repair and Remodeling Codes for Mobile and Manufactured Homes (Sections 8 and 9)

Present Situation

Chapter 320, F.S., relates to the regulation and enforcement of motor vehicle standards and licenses by the DHSMV. Section 320.01(2)(a), F.S., defines the term "mobile home" to mean:

> [A] structure, transportable in one or more sections, which is 8 body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. For tax purposes, the length of a mobile home is the distance from the exterior of the wall nearest to the drawbar and coupling mechanism to the exterior of the wall at the opposite end of the home where such walls enclose living or other interior space. Such distance includes expandable rooms, but excludes bay windows, porches, drawbars, couplings, hitches, wall and roof extensions, or other attachments that do not enclose interior space. In the event that the mobile home owner has no proof of the length of the drawbar, coupling, or hitch, then the tax collector may in his or her discretion either inspect the home to determine the actual length or may assume 4 feet to be the length of the drawbar, coupling, or hitch.

Section 320.01(2)(b), F.S., defines the term "manufactured home" to mean:

> [A] mobile home fabricated on or after June 15, 1976, in an offsite manufacturing facility for installation or assembly at the building site, with each section bearing a seal certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standard Act.

Section 320.822(2), F.S., defines the term "code" to include the "Mobile Home Repair and Remodeling Code" and the "Used Recreational Vehicle Code."

Section 320.8232(2), F.S., requires that the provisions of the Repair and Remodeling Code ensure safe and livable housing and that the code not be more stringent than those standards required to be met in the manufacture of mobile homes. Such provisions must include, but not be limited to, standards for structural adequacy, plumbing, heating, electrical systems, and fire and life safety. Section 320.8232(2), F.S., uses the term "Repair and Remodeling Code" and not the term "Mobile Home Repair and Remodeling Code."

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[97] S. 320.01(1) (b) 7., F.S.
[98] S.320.771 (3) (j), F.S.

Section 320.822(1), F.S., requires compliance with the "Used Recreational Vehicle Code" for recreational vehicles manufactured after January 1, 1968, and sold or offered for sale in this state by a dealer or manufacturer.

Effect of the Bill

The bill amends s. 320.822, F.S., to revise the term "Mobile Home Repair and Remodeling Code" to the "Mobile and Manufactured Home Repair and Remodeling Code."

The bill amends s. 320.8232, F.S., to require the Mobile and Manufactured Home Repair and Remodeling Code to be a uniform code. The bill requires that all repairs and remodeling of mobile and manufactured homes must be performed in accordance with rules of the DHSMV.

Jurisdiction of the Public Service Commission as it relates to Mobile Home Parks and Water and Wastewater Systems (Section 10)

Present Situation

Currently, the Public Service Commission (PSC) has jurisdiction over 150 water and wastewater investor-owned utilities (IOUs) in 38 of 67 counties in Florida.[99]

The remaining water and wastewater customers in the state are not subject to PSC regulation and are served either by IOUs in non-jurisdictional counties, by wells and septic tanks, or by systems owned, operated, managed, or controlled by governmental authorities or by statutorily exempt utilities (such as municipal utilities, cooperatives, and non-profits).[100]

Section 367.022(5), F.S., exempts from regulation by the PSC "landlords providing [water or wastewater] service to their tenants without specific compensation for the service." Also exempted from regulation is any person who resells water service to his or her tenants or to individually metered residents for a fee that does not exceed the actual purchase price of the water service plus the actual cost of meter reading and billing, not to exceed nine percent of the actual cost of service.[101]

Chapter 723.003, F.S., provides the following relevant definitions:

- "Mobile home subdivision" means a subdivision of mobile homes where individual lots are owned by owners and where a portion of the subdivision or the amenities exclusively serving the subdivision are retained by the subdivision developer.[102]
- "Mobile home lot rental agreement" or "rental agreement" means any mutual understanding or lease, whether oral or written, between a mobile home owner and a mobile home park owner in which the mobile home owner is entitled to place his or her mobile home on a mobile home lot for either direct or indirect remuneration of the mobile home park owner.[103]
- "Lot rental amount" means all financial obligations, except user fees, which are required as a condition of the tenancy.[104]
- "User fees" means those amounts charged in addition to the lot rental amount for nonessential optional services provided by or through the park owner to the mobile home owner under a

[99] Public Service Commission, *Data of the Florida Utility Industry*, p. 31 (June 2019), http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Factsandfigures/June%202019.pdf (last visited Jan. 23, 2020).
[100] *See* s. 367.022, F.S.
[101] S. 367.022(9), F.S.
[102] S. 723.003(14), F.S.
[103] S. 723.003(10), F.S.
[104] S. 723.003(6), F.S.

separate written agreement between the mobile home owner and the person furnishing the optional service or services.[105]

Effect of the Bill

The bill includes the reselling of "wastewater service" within the current exemption from regulation by the PSC.

The bill also exempts from regulation by the PSC the owner of a mobile home park operating both as a mobile home park and a mobile home subdivision, who provides service within the park and subdivision to a combination of both tenants and lot owners, provided that the service to tenants is without specific compensation.

Prospectus or Offering Circular and Rental Agreements (Sections 17 and 18)

Present Situation

Prospectus
The mobile home park prospectus is the document that governs the landlord-tenant relationship between the park owner and the mobile home owner.[106] The prospectus or offering circular, together with its attached exhibits, is a disclosure document intended to afford protection to homeowners and prospective homeowners in a mobile home park. The purpose of the document is to disclose the representations of the mobile home park owner concerning the operations of the mobile home park.[107]

The prospectus must include a description of the mobile home park property, including, but not limited to:[108]

- The number of lots in each section, the approximate size of each lot, the setback requirements, and the minimum separation distance between mobile homes as required by law.
- The maximum number of lots that will use shared facilities of the park; and, if the maximum number of lots will vary, a description of the basis for variation.

The prospectus must also include a description of all improvements, whether temporary or permanent, which are required to be installed by the mobile home owner as a condition of occupancy in the park.[109]

If the tenancy was in existence on the effective date of ch. 723, F.S., (June 4, 1984),[110] the prospectus or offering circular offered by the mobile home park owner must contain the same terms and conditions as rental agreements offered to all other mobile home owners residing in the park on the effective date of the Mobile Home Act, excepting only rent variations based upon lot location and size, and must not require any mobile home owner to install any permanent improvements.

In a mobile home park containing 26 or more lots, the park owner must file a prospectus with the division for approval.[111] The division maintains copies of each prospectus and all amendments to each prospectus that it has approved.[112]

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[105] S. 723.003(21), F.S.
[106] S. 723.012, F.S.
[107] S. 723.011(3), F.S.
[108] S. 723.012(4), F.S.
[109] S. 723.012(7). F.S.
[110] *See* Chapter 84-80, Laws of Fla.
[111] S. 723.011(1)(a), F.S.
[112] S. 723.011(1)(d), F.S.

The park owner must provide a copy of the prospectus with exhibits to each prospective lessee prior to the execution of the lot rental agreement or at the time of occupancy, whichever occurs first. The lot rental agreement is voidable by the lessee for a period of 15 days after receipt of the prospectus.[113]

By rule of the division, the prospectus distributed to a home owner or prospective home owner is binding for the length of the tenancy, including any assumptions of that tenancy, and may not be changed except in certain specified circumstances.[114]

Mobile Home Lot Rental Agreements
Rental agreements in a mobile home park must be consistent with the Mobile Home Act.[115] The provisions of ch. 723, F.S., are deemed to apply to every tenancy in a mobile home park whether or not a tenancy is covered by a valid written rental agreement.[116]

Park owners are prohibited from offering a rental agreement for a term of less than one year.[117] If there is no written rental agreement, the rental term may not be less than one year from the date of initial occupancy. The initial term may be less than one year in order to permit the park owner to have all rental agreements within the park commence at the same time. Thereafter, all terms must be for a minimum of one year.[118]

Effect of the Bill

The bill amends s. 723.011, F.S., to permit the park owner to disclose in the prospectus permanent improvements the mobile home owner must install to the mobile home.

The bill amends s. 723.012, F.S., to provide that if a park owner intends to include additional property and mobile home lots and to increase the number of lots that will use the shared facilities of the park, the park owner must amend the prospectus to disclose those additions. If the number of mobile home lots in the park increase by more than 15 percent of the total number of lots in the original prospectus, the park owner will reasonably offset the impact of the additional lots by increasing the shared facilities. The amendment to the prospectus must include a reasonable timeframe for providing the required additional shared facilities. The costs and expenses necessary to increase the shared facilities will not be passed on or pass through to the existing mobile home owners.

Mobile Home Owner General Obligations (Section 19)

Present Situation

Section 723.023, F.S., sets forth the mobile home owner's general obligations. A mobile home owner must at all times:

- Comply with building, housing, and health codes, including compliance with all building permits and construction requirements for construction on the mobile home and lot. The homeowner is responsible for all fines imposed by the local government for noncompliance with any local codes.
- Keep the mobile home lot, which he or she occupies clean, neat, and sanitary, and maintained in compliance with all local codes.
- Comply with properly promulgated park rules and regulations and require other persons on the premises with his or her consent to comply with such rules and to conduct themselves, and

[113] Ss. 723.011(2) and 723.014(1), F.S.
[114] *See* Rule 61B-31.001, F.A.C.
[115] S. 723.031(1), F.S.
[116] *Id.* at (2).
[117] S.723.031(4), F.S.
[118] *Id.*

other persons on the premises with his or her consent, in a manner that does not unreasonably disturb other residents of the park or constitute a breach of the peace.

Effect of the Bill

The bill requires mobile home owners to:

- Receive written approval from the mobile home park owner before making any exterior modification or addition to the home.
- When vacating the premises, remove any debris and other property of any kind that is left on the mobile home lot.

Mobile Home Park Rent Increases (Sections 20 and 21)

Present Situation

A purchaser of a mobile home has the right to assume the remainder of the term of any rental agreement in effect between the mobile home park owner and seller.[119] The purchaser is also entitled to rely on the terms and conditions of the prospectus or offering circular as delivered to the initial recipient.[120]

The mobile home park owner may increase the rental amount upon the expiration of the assumed rental agreement "in an amount deemed appropriate by the mobile home park owner."[121] The park owner must give affected mobile home owners and the board of directors of the homeowners' association, if one has been formed, at least a 90-day notice of a lot rental increase.[122]

The amount of the lot rental increase must be disclosed to the purchaser of a mobile home and agreed to in writing by the purchaser.[123] Lot rental increases may not be arbitrary or discriminatory between similarly situated tenants in the park, and the lot rental may not increase during the term of the rental agreement.[124] However, the mobile home park owner may pass on, at any time during the term of the rental agreement, ad valorem property taxes and utility charges, or increases of either, if the passing on of these costs was disclosed prior to the tenancy.[125]

A park owner is deemed to have disclosed the passing on of ad valorem property taxes and non-ad valorem assessments if ad valorem property taxes or non-ad valorem assessments were disclosed as a factor for increasing the lot rental amount in the prospectus or rental agreement.[126]

A park owner must give written notice to each affected mobile home owner and the board of directors of the homeowners' association, if one has been formed, at least 90 days before any increase in lot rental amount or reduction in services or utilities provided by the park owner or change in rules and regulations.[127] The notice must identify all other affected homeowners, which may be by lot number, name, group, or phase. If the affected homeowners are not identified by name, the park owner shall make the names and addresses available upon request.[128]

A committee of no more than five people, designated by a majority of the owners or by the board of directors of the homeowners' association (if formed), and the park owner must meet no later than 60

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[119] S. 723.059(3), F.S.
[120] *Id.*
[121] S. 723.059(4), F.S.
[122] S. 723.037(1), F.S.
[123] S. 723.031(5), F.S.
[124] *Id.*
[125] S. 723.031(5)(c), F.S.
[126] *Id.*
[127] S. 723.037(1), F.S.
[128] *Id.*

days before the effective date of a rent increase to discuss the reasons for the increase.[129] At the meeting, the park owner or subdivision developer must in good faith disclose and explain all material factors resulting in the decision to increase the lot rental amount, reduce services or utilities, or change rules and regulations, including how those factors justify the specific change proposed.[130]

If the meeting does not resolve the issue, then additional meetings may be requested. If subsequent meetings are unsuccessful, within 30 days of the last scheduled meeting, the mobile home owners may petition the division to initiate mediation.[131] If the mediation does not successfully resolve the dispute, then the parties may file an action in circuit court to challenge the rental increase as unreasonable.[132]

Effect of the Bill

The bill amends s. 723.031, F.S., to require ad valorem property taxes or non-ad valorem assessments be disclosed in the prospectus or rental agreement as a separate charge or a factor in order for a park owner to be deemed to have disclosed the passing on of ad valorem property taxes and non-ad valorem assessments.

The bill prohibits a park owner from charging or collecting from the mobile home owners any sum of ad valorem taxes or non-ad valorem taxes in an amount in excess of the sums remitted by the park owner to the tax collector.

The bill amends s. 723.037, F.S., to permit the park owner to give notice of all rent increases for multiple anniversary dates in the same 90-day notice. The bill provides that the requirement for the park owner to make available, upon request, the identifying information for homeowners affected by a rent increase does not authorize the park owner to release of the names, addresses, or other private information about the homeowners to the association or any other person for any other purpose.

The bill provides that the committee must address all lot rental amount increases that are specified in the notice of lot rental amount increase, regardless of the effective date of the increase.

Replacing Mobile Homes in Mobile Home Parks (Section 22)

Present Situation

Except as expressly preempted by the requirements of DHSMV, a mobile home owner or the park owner is authorized to "site any size new or used mobile home and appurtenances on a mobile home lot in accordance with the lot sizes, separation and setback distances, and other requirements in effect at the time of the approval of the mobile home park."[133]

Effect of the Bill

The bill provides that a mobile home park that is damaged or destroyed due to wind, water, or other natural force may be rebuilt on the same site with the same density as was approved, permitted, and built before the park was damaged or destroyed.

The bill provides that the regulation of the uniform fire safety standards established under s. 633.206, F.S., are not limited by this section of the Mobile Home Act. However, the section supersedes any other density, separation, setback, or lot size regulation adopted after initial permitting and construction of the mobile home park.

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[129] S. 723.037(4)(a), F.S.
[130] S. 723.037(4)(b), F.S.
[131] S. 723.037(5)(a), F.S.
[132] S. 723.0381, F.S.
[133] S. 723.041(4), F.S.

Park Owner Disclosures Prior to Residence (Section 23)

Present Situation

A mobile home park owner or developer may not require a person, as a precondition to occupancy in the mobile home park, to provide any improvement unless the requirement is disclosed pursuant to s. 723.011, F.S, which requires the park owner to deliver a prospectus to the prospective homeowner before the rental of a mobile home lot.[134]

In a mobile home park containing 26 or more lots, the park owner must file a prospectus with the division.[135] The prospectus must include a "description of all improvements, whether temporary or permanent, which are required to be installed by the mobile home owner as a condition of his or her occupancy in the park."[136]

Effect of the Bill

The bill provides that a mobile home park owner or developer may not require a person, as a precondition to occupancy in the mobile home park, to provide any improvement unless the requirement is disclosed in the prospectus as required under s. 723.012(7), F.S.

Purchasers of a Mobile Home within Mobile Home Park (Section 24)

Present Situation

The purchaser of a mobile home has the right to assume the remainder of the term of any rental agreement in effect between the mobile home park owner and the seller. The purchaser is entitled to rely on the terms and conditions of the prospectus or offering circular as delivered to the initial recipient.[137]

Upon the expiration of the assumed rental agreement, the mobile home park owner may increase the rental amount if the increase is disclosed to the purchaser prior to his or her occupancy and is imposed in a manner consistent with the initial offering circular or prospectus and ch. 723, F.S.[138]

Effect of the Bill

The bill provides that while that the purchaser of a mobile home on a rented lot may assume the seller's prospectus, nothing prohibits the park owner from offering the purchaser any approved prospectus.

The bill requires a mobile home park owner to disclose the lot rental amount to be charged for a new tenancy prior to the applicant paying a screening fee and applying for approval of the tenancy.

Termination of a Tenancy (Section 25)

Present Situation

Section 723.061, F.S., provides the following grounds for termination of a rental agreement:

- Nonpayment of rent;

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[134] S. 723.011(2), F.S.
[135] S. 723.011(1), F.S.
[136] S. 723.012(7), F.S.
[137] S. 723.059(3), F.S.
[138] S. 723.059(4), F.S.

- Conviction of a violation of a federal or state law or local ordinance, if the violation is detrimental to the health, safety, or welfare of other residents of the mobile home park;
- A violation of the park rules or of the rental agreement;
- A change in land use; or
- Failure to qualify as, and to obtain approval to become, a tenant or occupant of the home, if such approval is required by a properly promulgated rule.

Notice of an eviction must be posted on the premises and sent to the mobile home owner and tenant or occupant by certified or registered mail, return receipt requested.[139]

Effect of the Bill

The bill requires a park owner to send the change in use eviction notice to the division within 20 days. The division must then provide the executive director of the Florida Mobile Home Relocation Corporation with a copy of the notice.

The bill provides that a park owner's acceptance of any portion of a lot rental amount may constitute a waiver of the right to terminate the rental agreement or the right to bring a civil action for the noncompliance for any subsequent or continuing noncompliance. Any rent so received by the park owner must be accounted for at the final hearing.

Homeowners' Association Incorporation (Section 26)

Present Situation

In order to exercise the rights of a homeowners' association (association), mobile home owners must form an association that must be either a for profit or not for profit corporation and of which not less than two-thirds of all the mobile home owners within the park must have consented in writing to become members or shareholders. The term "member" or "shareholder" means a mobile home owner who consents to be bound by the articles of incorporation, bylaws, and polices of the incorporated homeowners' association.[140]

Upon receiving its certificate of incorporation the association must notify the park owner in writing of its creation and must advise the park owner of the names and addresses of the association officers. This notice must be made by personal delivery upon the park owner's representative as designated in the prospectus or by certified mail, return receipt requested.[141]

Effect of the Bill

The bill amends s. 723.076, F.S., to specify that the association must notify the park owner in writing by certified mail, return receipt requested, of names and addresses of newly elected or appointed officers or members to the association.

Homeowners' Association Bylaws (Section 27)

Present Situation

Voting Requirements and Proxies
Unless otherwise provided in the bylaws, 30 percent of the total membership is required to constitute a quorum for a meeting of the association.[142] A member may not vote by general proxy, but may vote by

[139] S. 723.061(4), F.S.
[140] S. 723.075(1), F.S.
[141] S. 723.076(1), F.S.
[142] S. 723.078(2)(b)1., F.S.

limited proxies substantially conforming to a limited proxy form adopted by the division. However, members may cast votes for association board members by limited or general proxy.[143] If a mobile home or subdivision lot is jointly owned, the owners of the mobile home or subdivision lot must be counted as one for the purpose of determining the number of votes required for a majority. Only one vote per mobile home or subdivision lot will be counted. Any number greater than 50 percent of the total number of votes constitutes a majority.[144]

Board of directors' and committee meetings
Meetings of the board of directors and meetings of its committees at which a quorum is present must be open to all members. This requirement does not apply to meetings held for the purpose of discussing personnel matters or meetings with the association's attorney where the contents of the discussion would be governed by the attorney-client privilege.[145]

Member Meetings
The association must conduct at least one member meeting annually during which members of the board of the directors are elected. The association's bylaws may not restrict the nomination from the floor of any member desiring to be a candidate for board membership. All nominations from the floor must be made at a meeting of the members held at least 30 days before the annual meeting. Unless waived in writing, the notice of the annual meeting must be mailed, hand delivered, or electronically transmitted to each member to at least 14 days before the meeting. An officer of the association must provide an affidavit affirming that the notices were mailed or hand delivered to each member at the address last furnished to the corporation.[146]

Minutes of Meetings
The minutes of all meetings of members of the association, the board of directors, and a committee must be maintained in writing and approved by the members, board, or committee, as applicable. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes. The minutes of all meetings of members and of the board of directors must be maintained, available for inspection, and retained for at least seven years.[147]

Effect of the Bill

Voting Requirements and Proxies
The bill provides that a proxy may not be used in the election of board members in general elections or elections to fill vacancies caused by recall, resignation, or otherwise. Board members must be elected by written ballot or by voting in person.

Under the bill, elections must be decided by a plurality of the ballots cast. There is no quorum requirement for an election but at least 20 percent of the eligible voters must cast a ballot for an election to be valid. A member is prohibited from allowing any other person to cast his or her ballot; improperly cast ballots are invalid. An election is required only if there are more candidates nominated than vacancies that exist on the board.

The bill provides that each member or other eligible person wishing to be a candidate for the board of directors must appear on the ballot in alphabetical order by surname. Ballots may not indicate if a candidate is an incumbent on the board. Ballots must be uniform in appearance and may not provide a space for the signature of, or any other means of identifying a vote. If the ballot contains more votes than vacancies or fewer votes than vacancies, the ballot is invalid unless otherwise stated in the bylaws. Write-in candidates and more than one vote per candidate per ballot are not allowed.

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[143] S. 723.078(2)(b)2., F.S.
[144] S. 723.078(2)(b)2, F.S.
[145] S. 723.078(2)(c), F.S.
[146] S. 723.078(2)(d), F.S.
[147] S. 723.078(2)(e), F.S.

The bill requires election oversight by an impartial committee responsible for complying with all ballot requirements. The bill defines "impartial committee" to mean a committee whose members do not include any of the following people or their spouses:

- Current board members.
- Current association officers.
- Candidates for the association or board.

The bill requires the association bylaws provide a method for determining the winner of an election in which there is more than one candidate for the same position receiving the same number of votes.

Any person who has been convicted of a felony is not eligible for board membership unless the person's civil rights have been restored for at least five years before the date on which the person seeks election to the board. Actions taken by the board remain valid even if later a member of the board is found ineligible for board membership.

The bill directs the division to adopt procedural rules to govern elections, including, but not limited to, rules for providing notice by electronic transmission and rules for maintaining secrecy of ballots.

Board of directors' and committee meetings
The bill provides that meetings between the park owner and the board of directors or any of the board's committees are not subject to the requirement that meetings be open to the association members.

The bill clarifies that notices of all board or committee meetings open to association members must be posted in a conspicuous place upon the park property at least 48 hours in advance, except in an emergency.

Member Meetings
The bill changes the date for the meeting at which to nominate candidates to the board of directors to 27, rather than 30, days before the annual meeting. Unless otherwise stated in the bylaws, notices may be delivered electronically.

Minutes of Meetings
Under the bill, the minutes of board or committee meetings that are closed to members are privileged, confidential, and not available for inspection or photocopying.

The bill provides that meetings open for members of the board of directors must be maintained in writing. All minutes of open meetings must be retained within this state for a period of at least five years, rather than seven years in current law.

Powers and Duties of Homeowners' Associations (Section 28)

Present Situation

The powers of the association include, but are not limited to, the maintenance, management, and operation of the park property.[148]The association must maintain the following items, when applicable, which constitute the official records of the association:[149]

- A copy of the articles of incorporation and each amendment.
- A copy of the bylaws and each amendment.
- A copy of the written rules or policies and each amendment.
- Approved minutes for all meetings of the members, board of directors, and committees of the board. Records must be retained within this state for at least 7 years.
- A current roster of all members and their mailing address and lot identifications.

[148] S. 723.079(1), F.S.
[149] S. 723.079(4)(a)-(i), F.S.

- All insurance policies or copies, which must be retained for at least 7 years.
- A copy of all contracts or agreements to which the association is a party. Copies must be retained for at least 7 years.
- The financial and accounting records, which must be maintained for at least 7 years.
- All other written records that are related to the operation of the association.

The official records must be maintained within the state for at least 7 years and must be made available to a member for inspection or photocopying within 10 business days after receipt by the board or its designee of a written request submitted by certified mail, return receipt requested.[150]

Failure to provide access to the records creates a rebuttable presumption that the association willfully failed to comply with this section. A member who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. Minimum damages are $10 per day up to 10 days and calculation begins on the 11th business day after receipt of the written request by certified mail, return receipt requested.

Effect of the Bill

The bill includes the approved minutes of meetings open for members, open for members of the board, and committees as part of the official association records and changes the length of retention from seven to five years. The bill specifies that insurance policies and contracts or agreements must be retained for at least five years after the expiration date of the policy or contract. The bill provides that financial and accounting records of the association must be maintained within this state for at least five years, and also specifies that all other written records must be retained within this state for at least five years or at least five years after the expiration date.

The bill requires that the association records be available for inspection by a member within 20 business days. Under the bill, an association member denied access to association records may recover only $10 per calendar day, not to exceed $100, and the calculation for the damages begins on the 21st business day after the association receives the written request for records.

The bill provides that a dispute between a member and an association regarding inspecting or photocopying official records must be submitted to mandatory binding arbitration with the division, and the arbitration must be conducted pursuant to s. 723.1255, F.S., and procedural rules adopted by the division.

Alternative Resolution of Recall, Election, and Inspection and Photocopying of Official Records Disputes (Section 29)

Present Situation

As required by statute, the division adopted rules of procedure governing binding arbitration for recall proceedings.[151]

Effect of the Bill

The bill expands s. 723.1255, F.S., to include disputes between a mobile home owner and a homeowners' association regarding the election and recall of officers or directors or the inspection and photocopying of official records. The dispute must be submitted to the division for mandatory binding arbitration conducted under the statute and the procedural rules adopted by the division.

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[150] S. 723.079(5), F.S.
[151] Ch. 61B-50, F.A.C.

Each party is responsible for paying its own attorney fees, expert and investigator fees, and associated costs. The cost of the arbitrator must be divided equally between the parties regardless of the outcome.

The bill clarifies that the division must adopt rules of procedure to govern mandatory binding arbitration proceedings.

B. SECTION DIRECTORY:

Section 1 Amends s. 125.01055, F.S., relating to county affordable housing.

Section 2 Amends s. 163.31771, F.S., relating to accessory dwelling units.

Section 3 Amends s. 163.31801, F.S., relating to impact fees.

Section 4 Amends s. 166.04151, F.S., relating to municipal affordable housing.

Section 5 Amends s. 212.05, F.S., relating to sales, storage, use tax.

Section 6 Amends s. 320.77, F.S., relating to licenses required for mobile home park dealers.

Section 7 Amends s. 320.771, F.S., relating to licenses required for recreational vehicle dealers.

Section 8 Amends s. 320.822, F.S., relating to definitions pertaining to manufactured homes and recreational vehicles.

Section 9 Amends s. 320.8232, F.S., relating to uniform standards for used recreational vehicles and repair and remodeling code for mobile homes.

Section 10 Amends s. 367.022, F.S., relating to water and wastewater system exemptions.

Section 11 Amends s. 420.5087, F.S., relating to the State Apartment Incentive Loan Program.

Section 12 Amends s. 420.5095, F.S., relating to Community Workforce Housing Loan Program.

Section 13 Amends s. 420.531, F.S., relating to Affordable Housing Catalyst Program.

Section 14 Amends s. 420.9073, F.S., relating to local housing distributions.

Section 15 Amends s. 420.9075, F.S., relating to local housing assistance plans.

Section 16 Amends s. 420.9076, F.S., relating to adoption of affordable housing incentive strategies.

Section 17 Amends s. 723.011, F.S., relating to disclosures prior to renting mobile home lots.

Section 18 Amends s. 723.012, F.S., relating to prospectus or offering circular for mobile home park property.

Section 19 Amends s. 723.023, F.S., relating to mobile home owner's general obligations.

Section 20 Amends s. 723.031, F.S., relating to mobile home lot rental agreements.

Section 21 Amends s. 723.037, F.S., relating to lot rental increases; reduction in services or utilities; change in rules and regulations; mediation.

Section 22 Amends s. 723.041, F.S., relating to entrance fees, refunds, exit fee prohibition, replacement homes for mobile home parks.

Section 23 Amends s. 723.042, F.S., relating to mobile homeowner provision of improvements.

Section 24 Amends s. 723.059, F.S., relating to rights of mobile home purchaser.

Section 25 Amends s. 723.061, F.S., relating to grounds and proceedings for mobile homeowner evictions.

Section 26 Amends s. 723.076, F.S., relating to incorporation of mobile home park associations.

Section 27 Amends s. 723.078, F.S., relating to mobile home park homeowner association bylaws.

Section 28 Amends s. 723.079, F.S., relating to mobile home park homeowner association powers and duties.

Section 29 Amends s. 723.1255, F.S., relating to alternative resolution of recall disputes.

Section 30 Reenacts s. 420.507, F.S., relating to powers of the Florida Housing Finance Corporation, to incorporate the amendment made to s. 420.5087, F.S. in a reference thereto.

Section 31 Reenacts s. 193.018, F.S., relating to land owned by a community land trust used to provide affordable housing, to incorporate the amendment made to s. 420.5095, F.S., in a reference thereto.

Section 32 Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Affordable Housing

The Affordable Housing Catalyst Program will incur new costs related to the administration of regional affordable housing workshops for locally elected officials as specified in sections 13 and 16 of the bill. According to Florida Housing, based on current activities, webinars cost $2,000 each to conduct and in person meetings cost $5,250 each. Based on the assumption that the state is divided into six regions, with two meetings each per year, the cost of the regional workshops would be between $24,000 and $63,000 depending on whether the method of delivery is in person or by teleconference.[152]

The bill requires local governments to adopt an ordinance to allow ADUs in any area zoned for single family residential use, except in an area of critical state concern where the state caps the number of new housing units which may be built within a year. This may result in an insignificant negative fiscal impact on local governments for having to modify current ordinances.

Mobile Homes

Sales Tax
The bill decreases the applicable sales tax to three percent on the sales price on the sale of new mobile homes.

The Revenue Estimating Conference analyzed the sales tax portion of the bill on February 7, 2020, and estimated this portion to have negative annual revenue impacts of -$12.9 million and -$1.6 million on state General Revenue and local government revenues, respectively, beginning FY 2020-21. There is also a negative state and local revenue impact of -$2.4 million in FY 2019-20 due to the effective date of the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This 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:

Section 9 of the bill requires repair and remodeling of mobile and manufactured homes be performed in accordance with agency rules. Neither the statute being amended, s. 320.8232, F.S., nor the rulemaking authority of DHSMV under s. 320.011, F.S., provide specific criteria for the rules to be adopted by DHSMV. The particular statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.[153] A delegation of authority to an administrative agency by a law that is vague, uncertain, or so broad as to give no notice of what actions

[152] Florida Housing, 2020 Analysis for HB 1339. On file with Local, Federal & Veterans Affairs Subcommittee.
[153] *Sloban v. Florida Bd. of Pharmacy,* 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Askew v. Cross Keys Waterways*, 372 So. 2d 913, 918-919 (Fla. 1978); Board *of Trustees of the Internal Improvement Trust Fund v. Day Cruise Ass'n,* 794 So. 2d 696, 704 (Fla. 1st DCA 2001).

would violate the law, could be invalidated if it allows the agency to make the law.[154] Because of this constitutional limitation on delegated rulemaking, the Legislature must provide minimal standards and guidelines in the law creating a program to provide for its proper administration by the assigned executive agency. The Legislature may delegate rulemaking authority to agencies but not the authority to determine what should be the law.[155]

C. DRAFTING ISSUES OR OTHER COMMENTS:

On line 669, the bill requires that transitional housing "must be constructed on campus." The term "campus" is undefined in the bill and in the statute being amended. As it is unclear to what the term "campus" refers, FHFC may not have clear direction for the allocation and use of funds under the terms in the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 3, 2020, the Local, Federal & Veterans Affairs Subcommittee adopted a strike all amendment and reported the bill favorably as a committee substitute. The strike all amendment made the following changes:

- Exempts local governments in an area of critical state concern from having to adopt an ordinance to allow accessory dwelling units in any area zoned for single-family residential use;
- Decreases the applicable sales tax to three percent on the sales price on the sale of new mobile homes;
- Provides that the owner of a mobile home park operating both as a mobile home park and subdivision and who provides service within the park and subdivision to a combination of tenants and lot owners, is exempt from regulation by the Public Service Commission;
- Provides that mobile home owners may be required to install permanent improvements to the mobile home as disclosed in the prospectus.
- Allows a home buyer to have the option to receive the seller's prospectus or opt for a new prospectus;
- Requires a mobile home park owner to amend the prospectus when expanding the park to include new lots and an expansion of more than 15 percent requires increasing facilities or amenities within a reasonable timeframe;
- Reverts to current law requiring a mobile home park owner to provide an eviction notice by certified mail;
- Prohibits a mobile home park owner from charging or collecting from mobile home owners any amount charged for ad valorem taxes or non-ad valorem taxes in excess of the sums remitted by the park owner to the tax collector;
- Requires a park owner to send the change in use eviction notice to the division and the division must send the notice to the Florida Mobile Home Relocation Corporation;
- Provides that the homeowners' association must notify the park owner in writing by certified mail, return receipt requested, of the names and addresses of newly elected or appointed officers or members to the association;
- Reduces the number of years the homeowners' association must retain certain records from seven to five years;
- Revises homeowners' association bylaws; and
- Revises arbitration proceedings to provide that each party must be responsible for paying its own attorney fees, expert and investigator fees, and associated costs; and specifies costs of the arbitrators must be divided equally between the parties regardless of the outcome.

This analysis is drafted to the committee substitute as approved by the Local, Federal & Veterans Affairs Subcommittee.

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[154] *Conner v. Joe Hatton, Inc.*, 216 So. 2d 209 (Fla.1968).
[155] *Sarasota County. v. Barg*, 302 So. 2d 737 (Fla. 1974).

1 A bill to be entitled
2 An act relating to housing; amending s. 125.01055,
3 F.S.; authorizing a board of county commissioners to
4 approve development of affordable housing on any
5 parcel zoned for residential, commercial, or
6 industrial use; amending s. 163.31771, F.S.; revising
7 legislative findings; requiring local governments to
8 adopt ordinances that allow accessory dwelling units
9 in any area zoned for single-family residential use;
10 providing an exception; amending s. 163.31801, F.S.;
11 requiring counties, municipalities, and special
12 districts to include certain data relating to impact
13 fees in their annual financial reports; amending s.
14 166.04151, F.S.; authorizing governing bodies of
15 municipalities to approve the development of
16 affordable housing on any parcel zoned for
17 residential, commercial, or industrial use; amending
18 s. 212.05, F.S.; specifying the sales tax rate for new
19 mobile homes; amending s. 320.77, F.S.; revising a
20 certification requirement for mobile home dealer
21 applicants relating to the applicant's business
22 location; amending s. 320.771, F.S.; exempting certain
23 recreational vehicle dealer applicants from a garage
24 liability insurance requirement; amending s. 320.822,
25 F.S.; revising the definition of the term "code";

26 amending s. 320.8232, F.S.; revising applicable
27 standards for the repair and remodeling of mobile and
28 manufactured homes; amending s. 367.022, F.S.;
29 exempting certain mobile home park owners and mobile
30 home subdivision owners from regulation by the Florida
31 Public Service Commission relating to water and
32 wastewater service; amending s. 420.5087, F.S.;
33 revising the criteria used by a review committee when
34 evaluating and selecting specified applications for
35 state apartment incentive loans; amending s. 420.5095,
36 F.S.; renaming the Community Workforce Housing
37 Innovation Pilot Program as the Community Workforce
38 Housing Loan Program; requiring the program to provide
39 workforce housing; revising the definition of the term
40 "workforce housing"; deleting the definition of the
41 term "public-private partnership"; authorizing the
42 Florida Housing Finance Corporation to provide loans
43 under the program to applicants for construction of
44 workforce housing; requiring the corporation to
45 establish a certain loan application process; deleting
46 provisions requiring the corporation to provide
47 incentives for local governments to use certain funds;
48 requiring projects to receive priority consideration
49 for funding under certain circumstances; deleting a
50 provision providing for the expedition of local

51 government comprehensive plan amendments to implement
52 a program project; requiring that the corporation
53 award loans at a specified interest rate and for a
54 limited term; conforming provisions to changes made by
55 the act; amending s. 420.531, F.S.; specifying that
56 technical support provided to local governments and
57 community-based organizations includes implementation
58 of the State Apartment Incentive Loan Program;
59 requiring the entity providing training and technical
60 assistance to convene and administer biannual regional
61 workshops; requiring such entity to annually compile
62 and submit certain information to the Legislature and
63 the corporation by a specified date; amending s.
64 420.9073, F.S.; authorizing the corporation to
65 withhold a certain portion of funds distributed from
66 the Local Government Housing Trust Fund to be used for
67 certain transitional housing; prohibiting such funds
68 from being used for specified purposes; requiring the
69 corporation to consult with the Department of Children
70 and Families to create minimum criteria for such
71 housing; providing for the distribution of withheld
72 funds; amending s. 420.9075, F.S.; revising
73 requirements for reports submitted by counties and
74 certain municipalities to the corporation; amending s.
75 420.9076, F.S.; revising the membership of local

76 affordable housing advisory committees beginning on a
77 specified date; requiring the committees to perform
78 specified duties annually instead of triennially;
79 requiring locally elected officials serving on
80 advisory committees, or their designees, to attend
81 biannual regional workshops; providing a penalty;
82 amending s. 723.011, F.S.; providing construction
83 relating to rental agreements and tenancies; providing
84 that a mobile home owner may be required to install
85 permanent improvements as disclosed in the mobile home
86 park prospectus; amending s. 723.012, F.S.;
87 authorizing mobile home park owners to make certain
88 prospectus amendments; providing requirements for the
89 amendment; prohibiting certain costs and expenses from
90 being passed on to existing mobile home owners;
91 amending s. 723.023, F.S.; revising general
92 obligations for mobile home owners; amending s.
93 723.031, F.S.; specifying a requirement for disclosing
94 and agreeing to a mobile home lot rental increase;
95 revising construction relating to a park owner's
96 disclosure of certain taxes and assessments; amending
97 s. 723.037, F.S.; authorizing mobile home park owners
98 to give notice of lot rental increases for multiple
99 anniversary dates in one notice; providing
100 construction; revising a requirement for a lot rental

101 negotiation committee; amending s. 723.041, F.S.;
102 providing that a mobile home park damaged or destroyed
103 due to natural forces may be rebuilt with the same
104 density as previously approved, permitted, and built;
105 providing construction; amending s. 723.042, F.S.;
106 conforming a provision to changes made by the act;
107 amending s. 723.059, F.S.; authorizing certain mobile
108 home purchasers to assume the remainder of a seller's
109 prospectus; authorizing a mobile home park owner to
110 offer a purchaser any approved prospectus; amending s.
111 723.061, F.S.; specifying entities that must be
112 provided with a copy of an eviction notice when
113 received by a mobile home owner; specifying the waiver
114 and nonwaiver of certain rights of a mobile home park
115 owner under certain circumstances; requiring the
116 accounting at final hearing of rents received;
117 amending s. 723.076, F.S.; revising procedures related
118 to the election or appointment of new officers in a
119 homeowner's association; amending s. 723.078, F.S.;
120 revising requirements for board elections and ballots;
121 requiring an impartial committee to be responsible for
122 overseeing the election process and complying with
123 ballot requirements; defining the term "impartial
124 committee"; requiring that association bylaws provide
125 a method for determining the winner of an election

126 under certain circumstances; prohibiting certain
127 persons from seeking election to a board and from
128 being eligible for board membership; specifying that
129 certain actions taken by a board are not invalid;
130 requiring the Division of Florida Condominiums,
131 Timeshares, and Mobile Homes to adopt procedural
132 rules; revising the types of meetings that are not
133 required to be open to members; providing an exception
134 to a provision requiring an officer of an association
135 to provide an affidavit affirming certain information;
136 authorizing meeting notices to be provided by
137 electronic means; providing that the minutes of
138 certain board and committee meetings are privileged
139 and confidential; conforming provisions to changes
140 made by the act; amending s. 723.079, F.S.; revising
141 homeowners' association recordkeeping requirements;
142 revising the timeframes for which certain records are
143 required to be retained and be made available for
144 inspection or photocopying; capping the amount of
145 damages for which an association is liable when a
146 member is denied access to official records; requiring
147 that certain disputes be submitted tc mandatory
148 binding arbitration with the division; amending s.
149 723.1255, F.S.; requiring that certain disputes be
150 submitted to mandatory binding arbitration with the

151 division; providing requirements for such arbitration
152 and fees and costs; requiring the division to adopt
153 rules; reenacting s. 420.507(22)(i), F.S., relating to
154 powers of the Florida Housing Finance Corporation, to
155 incorporate the amendment made to s. 420.5087, F.S.,
156 in a reference thereto; reenacting s. 193.018(2),
157 F.S., relating to land owned by a community land trust
158 used to provide affordable housing, to incorporate the
159 amendment made to s. 420.5095, F.S., in a reference
160 thereto; providing an effective date.
161
162 Be It Enacted by the Legislature of the State of Florida:
163
164 Section 1. Subsection (4) is added to section 125.01055,
165 Florida Statutes, to read:
166 125.01055 Affordable housing.—
167 (4) Notwithstanding any other law, local ordinance, or
168 regulation to the contrary, the board of county commissioners
169 may approve the development of housing that is affordable, as
170 defined in s. 420.0004, on any parcel zoned for residential,
171 commercial, or industrial use.
172 Section 2. Subsections (1), (3), and (4) of section
173 163.31771, Florida Statutes, are amended to read:
174 163.31771 Accessory dwelling units.—
175 (1) The Legislature finds that the median price of homes

176 in this state has increased steadily over the last decade and at
177 a greater rate of increase than the median income in many urban
178 areas. The Legislature finds that the cost of rental housing has
179 also increased steadily and the cost often exceeds an amount
180 that is affordable to extremely-low-income, very-low-income,
181 low-income, or moderate-income persons and has resulted in a
182 critical shortage of affordable rentals in many urban areas in
183 the state. This shortage of affordable rentals constitutes a
184 threat to the health, safety, and welfare of the residents of
185 the state. Therefore, the Legislature finds that it serves an
186 important public purpose to require ~~encourage~~ the permitting of
187 accessory dwelling units in single-family residential areas in
188 order to increase the availability of affordable rentals for
189 extremely-low-income, very-low-income, low-income, or moderate-
190 income persons.
191 (3) Each ~~Upon a finding by a local government that there~~
192 ~~is a shortage of affordable rentals within its jurisdiction, the~~
193 local government shall ~~may~~ adopt an ordinance to allow accessory
194 dwelling units in any area zoned for single-family residential
195 use, except in an area of critical state concern where the state
196 caps the number of new housing units which may be built within a
197 year.
198 (4) ~~If the local government adopts an ordinance under this~~
199 ~~section,~~ An application for a building permit to construct an
200 accessory dwelling unit must include an affidavit from the

201 applicant which attests that the unit will be rented at an
202 affordable rate to an extremely-low-income, very-low-income,
203 low-income, or moderate-income person or persons.
204 Section 3. Subsection (10) is added to section 163.31801,
205 Florida Statutes, to read:
206 163.31801 Impact fees; short title; intent; minimum
207 requirements; audits; challenges.—
208 (10) In addition to the items that must be reported in the
209 annual financial reports under s. 218.32, each county,
210 municipality, and special district must report all of the
211 following data on each impact fee charged:
212 (a) The specific purpose of the impact fee, including the
213 specific infrastructure needs to be met such as transportation,
214 parks, water, sewer, and schools.
215 (b) The impact fee schedule policy describing the method
216 of calculating impact fees, such as flat fees, tiered fees based
217 on the number of bedrooms, or tiered fees based on the square
218 footage.
219 (c) The amount assessed for each purpose and for each type
220 of dwelling.
221 (d) The total amount of impact fees charged by type of
222 dwelling.
223 Section 4. Subsection (4) is added to section 166.04151,
224 Florida Statutes, to read:
225 166.04151 Affordable housing.—

226 (4) Notwithstanding any other law, local ordinance, or
227 regulation to the contrary, the governing body of a municipality
228 may approve the development of housing that is affordable, as
229 defined in s. 420.0004, on any parcel zoned for residential,
230 commercial, or industrial use.
231 Section 5. Paragraph (n) is added to subsection (1) of
232 section 212.05, Florida Statutes, to read:
233 212.05 Sales, storage, use tax.—It is hereby declared to
234 be the legislative intent that every person is exercising a
235 taxable privilege who engages in the business of selling
236 tangible personal property at retail in this state, including
237 the business of making mail order sales, or who rents or
238 furnishes any of the things or services taxable under this
239 chapter, or who stores for use or consumption in this state any
240 item or article of tangible personal property as defined herein
241 and who leases or rents such property within the state.
242 (1) For the exercise of such privilege, a tax is levied on
243 each taxable transaction or incident, which tax is due and
244 payable as follows:
245 (n) At the rate of 3 percent of the sales price on the
246 sale of a new mobile home. For purposes of this paragraph, the
247 term "new mobile home" has the same meaning as provided in s.
248 319.001.
249 Section 6. Paragraph (h) of subsection (3) of section
250 320.77, Florida Statutes, is amended to read:

251 320.77 License required of mobile home dealers.—
252 (3) APPLICATION.—The application for such license shall be
253 in the form prescribed by the department and subject to such
254 rules as may be prescribed by it. The application shall be
255 verified by oath or affirmation and shall contain:
256 (h) Certification by the applicant:
257 1. That the location is a permanent one, not a tent or a
258 temporary stand or other temporary quarters.~~; and,~~
259 2. Except in the case of a mobile home broker, that the
260 location affords sufficient ~~unoccupied~~ space to display ~~store~~
261 ~~all mobile~~ homes ~~offered and displayed~~ for sale. A space to
262 display a manufactured home as a model home satisfies this
263 requirement.~~; and that~~ The location must be ~~is~~ a suitable place
264 in which the applicant can in good faith carry on business and
265 keep and maintain books, records, and files necessary to conduct
266 such business, which must ~~will~~ be available at all reasonable
267 hours to inspection by the department or any of its inspectors
268 or other employees.
269
270 This paragraph does ~~subsection shall~~ not preclude a licensed
271 mobile home dealer from displaying and offering for sale mobile
272 homes in a mobile home park.
273
274 The department shall, if it deems necessary, cause an
275 investigation to be made to ascertain if the facts set forth in

276 the application are true and shall not issue a license to the
277 applicant until it is satisfied that the facts set forth in the
278 application are true.
279 Section 7. Paragraph (j) of subsection (3) of section
280 320.771, Florida Statutes, is amended to read:
281 320.771 License required of recreational vehicle dealers.—
282 (3) APPLICATION.—The application for such license shall be
283 in the form prescribed by the department and subject to such
284 rules as may be prescribed by it. The application shall be
285 verified by oath or affirmation and shall contain:
286 (j) A statement that the applicant is insured under a
287 garage liability insurance policy, which shall include, at a
288 minimum, $25,000 combined single-limit liability coverage,
289 including bodily injury and property damage protection, and
290 $10,000 personal injury protection, if the applicant is to be
291 licensed as a dealer in, or intends to sell, recreational
292 vehicles. <u>However, a garage liability policy is not required for</u>
293 <u>the licensure of a mobile home dealer who sells only park</u>
294 <u>trailers.</u>
295
296 The department shall, if it deems necessary, cause an
297 investigation to be made to ascertain if the facts set forth in
298 the application are true and shall not issue a license to the
299 applicant until it is satisfied that the facts set forth in the
300 application are true.

301 Section 8. Paragraph (c) of subsection (2) of section
302 320.822, Florida Statutes, is amended to read:
303 320.822 Definitions; ss. 320.822-320.862.—In construing
304 ss. 320.822-320.862, unless the context otherwise requires, the
305 following words or phrases have the following meanings:
306 (2) "Code" means the appropriate standards found in:
307 (c) The Mobile and Manufactured Home Repair and Remodeling
308 Code and the Used Recreational Vehicle Code.
309 Section 9. Subsection (2) of section 320.8232, Florida
310 Statutes, is amended to read:
311 320.8232 Establishment of uniform standards for used
312 recreational vehicles and repair and remodeling code for mobile
313 homes.—
314 (2) The Mobile and Manufactured Home ~~provisions of the~~
315 Repair and Remodeling Code must be a uniform code, must ~~shall~~
316 ensure safe and livable housing, and may ~~shall~~ not be more
317 stringent than those standards required to be met in the
318 manufacture of mobile homes. Such code must ~~provisions shall~~
319 include~~, but not be limited to,~~ standards for structural
320 adequacy, plumbing, heating, electrical systems, and fire and
321 life safety. All repairs and remodeling of mobile and
322 manufactured homes must be performed in accordance with
323 department rules.
324 Section 10. Subsection (9) of section 367.022, Florida
325 Statutes, is amended, and subsection (14) is added to that

326 section, to read:
327 367.022 Exemptions.—The following are not subject to
328 regulation by the commission as a utility nor are they subject
329 to the provisions of this chapter, except as expressly provided:
330 (9) Any person who resells water service to his or her
331 tenants or to individually metered residents for a fee that does
332 not exceed the actual purchase price of the water and wastewater
333 service plus the actual cost of meter reading and billing, not
334 to exceed 9 percent of the actual cost of service.
335 (14) The owner of a mobile home park operating both as a
336 mobile home park and a mobile home subdivision, as those terms
337 are defined in s. 723.003, who provides service within the park
338 and subdivision to a combination of both tenants and lot owners,
339 provided that the service to tenants is without specific
340 compensation.
341 Section 11. Paragraph (c) of subsection (6) of section
342 420.5087, Florida Statutes, is amended to read:
343 420.5087 State Apartment Incentive Loan Program.—There is
344 hereby created the State Apartment Incentive Loan Program for
345 the purpose of providing first, second, or other subordinated
346 mortgage loans or loan guarantees to sponsors, including for-
347 profit, nonprofit, and public entities, to provide housing
348 affordable to very-low-income persons.
349 (6) On all state apartment incentive loans, except loans
350 made to housing communities for the elderly to provide for

351 lifesafety, building preservation, health, sanitation, or
352 security-related repairs or improvements, the following
353 provisions shall apply:
354 (c) The corporation shall provide by rule for the
355 establishment of a review committee for the competitive
356 evaluation and selection of applications submitted in this
357 program, including, but not limited to, the following criteria:
358 1. Tenant income and demographic targeting objectives of
359 the corporation.
360 2. Targeting objectives of the corporation which will
361 ensure an equitable distribution of loans between rural and
362 urban areas.
363 3. Sponsor's agreement to reserve the units for persons or
364 families who have incomes below 50 percent of the state or local
365 median income, whichever is higher, for a time period that
366 exceeds the minimum required by federal law or this part.
367 4. Sponsor's agreement to reserve more than:
368 a. Twenty percent of the units in the project for persons
369 or families who have incomes that do not exceed 50 percent of
370 the state or local median income, whichever is higher; or
371 b. Forty percent of the units in the project for persons
372 or families who have incomes that do not exceed 60 percent of
373 the state or local median income, whichever is higher, without
374 requiring a greater amount of the loans as provided in this
375 section.

376 5. Provision for tenant counseling.
377 6. Sponsor's agreement to accept rental assistance
378 certificates or vouchers as payment for rent.
379 7. Projects requiring the least amount of a state
380 apartment incentive loan compared to overall project cost,
381 except that the share of the loan attributable to units serving
382 extremely-low-income persons must be excluded from this
383 requirement.
384 8. Local government contributions and local government
385 comprehensive planning and activities that promote affordable
386 housing <u>and policies that promote access to public</u>
387 <u>transportation, reduce the need for onsite parking, and expedite</u>
388 <u>permits for affordable housing projects</u>.
389 9. Project feasibility.
390 10. Economic viability of the project.
391 11. Commitment of first mortgage financing.
392 12. Sponsor's prior experience.
393 13. Sponsor's ability to proceed with construction.
394 14. Projects that directly implement or assist welfare-to-
395 work transitioning.
396 15. Projects that reserve units for extremely-low-income
397 persons.
398 16. Projects that include green building principles,
399 storm-resistant construction, or other elements that reduce
400 long-term costs relating to maintenance, utilities, or

401 insurance.
402 17. Job-creation rate of the developer and general
403 contractor, as provided in s. 420.507(47).
404 Section 12. Section 420.5095, Florida Statutes, is amended
405 to read:
406 420.5095 Community Workforce Housing Loan ~~Innovation Pilot~~
407 Program.—
408 (1) The Legislature finds and declares that recent rapid
409 increases in the median purchase price of a home and the cost of
410 rental housing have far outstripped the increases in median
411 income in the state, ~~preventing essential services personnel~~
412 ~~from living in the communities where they serve and thereby~~
413 creating the need for innovative solutions for the provision of
414 housing opportunities ~~for essential services personnel~~.
415 (2) The Community Workforce Housing Loan ~~Innovation Pilot~~
416 Program is created to provide ~~affordable rental and home~~
417 ~~ownership community~~ workforce housing for persons ~~essential~~
418 ~~services personnel~~ affected by the high cost of housing~~, using~~
419 ~~regulatory incentives and state and local funds to promote local~~
420 ~~public-private partnerships and leverage government and private~~
421 ~~resources~~.
422 (3) For purposes of this section, the term~~:~~
423 ~~(a)~~ "workforce housing" means housing affordable to
424 natural persons or families whose total annual household income
425 does not exceed 80 ~~140~~ percent of the area median income,

426 adjusted for household size, or 120 ~~150~~ percent of area median
427 income, adjusted for household size, in areas of critical state
428 concern designated under s. 380.05, for which the Legislature
429 has declared its intent to provide affordable housing, and areas
430 that were designated as areas of critical state concern for at
431 least 20 consecutive years before ~~prior to~~ removal of the
432 designation.
433 ~~(b) "Public-private partnership" means any form of~~
434 ~~business entity that includes substantial involvement of at~~
435 ~~least one county, one municipality, or one public sector entity,~~
436 ~~such as a school district or other unit of local government in~~
437 ~~which the project is to be located, and at least one private~~
438 ~~sector for-profit or not-for-profit business or charitable~~
439 ~~entity, and may be any form of business entity, including a~~
440 ~~joint venture or contractual agreement.~~
441 (4) The Florida Housing Finance Corporation may ~~is~~
442 ~~authorized to~~ provide loans under the ~~Community Workforce~~
443 ~~Housing Innovation Pilot~~ program ~~loans~~ to applicants ~~an~~
444 ~~applicant~~ for construction ~~or rehabilitation~~ of workforce
445 housing ~~in eligible areas. This funding is intended to be used~~
446 ~~with other public and private sector resources~~.
447 (5) The corporation shall establish a loan application
448 process under s. 420.5087 ~~by rule which includes selection~~
449 ~~criteria, an application review process, and a funding process~~.
450 ~~The corporation shall also establish an application review~~

451 ~~committee that may include up to three private citizens~~
452 ~~representing the areas of housing or real estate development,~~
453 ~~banking, community planning, or other areas related to the~~
454 ~~development or financing of workforce and affordable housing.~~
455 ~~(a) The selection criteria and application review process~~
456 ~~must include a procedure for curing errors in the loan~~
457 ~~applications which do not make a substantial change to the~~
458 ~~proposed project.~~
459 ~~(b) To achieve the goals of the pilot program, the~~
460 ~~application review committee may approve or reject loan~~
461 ~~applications or responses to questions raised during the review~~
462 ~~of an application due to the insufficiency of information~~
463 ~~provided.~~
464 ~~(c) The application review committee shall make~~
465 ~~recommendations concerning program participation and funding to~~
466 ~~the corporation's board of directors.~~
467 ~~(d) The board of directors shall approve or reject loan~~
468 ~~applications, determine the tentative loan amount available to~~
469 ~~each applicant, and rank all approved applications.~~
470 ~~(e) The board of directors shall decide which approved~~
471 ~~applicants will become program participants and determine the~~
472 ~~maximum loan amount for each program participant.~~
473 ~~(6) The corporation shall provide incentives for local~~
474 ~~governments in eligible areas to use local affordable housing~~
475 ~~funds, such as those from the State Housing Initiatives~~

476 ~~Partnership Program, to assist in meeting the affordable housing~~
477 ~~needs of persons eligible under this program. Local governments~~
478 ~~are authorized to use State Housing Initiative Partnership~~
479 ~~Program funds for persons or families whose total annual~~
480 ~~household income does not exceed:~~
481 ~~(a) One hundred and forty percent of the area median~~
482 ~~income, adjusted for household size; or~~
483 ~~(b) One hundred and fifty percent of the area median~~
484 ~~income, adjusted for household size, in areas that were~~
485 ~~designated as areas of critical state concern for at least 20~~
486 ~~consecutive years prior to the removal of the designation and in~~
487 ~~areas of critical state concern, designated under s. 380.05, for~~
488 ~~which the Legislature has declared its intent to provide~~
489 ~~affordable housing.~~
490 ~~(7) Funding shall be targeted to innovative projects in~~
491 ~~areas where the disparity between the area median income and the~~
492 ~~median sales price for a single-family home is greatest, and~~
493 ~~where population growth as a percentage rate of increase is~~
494 ~~greatest. The corporation may also fund projects in areas where~~
495 ~~innovative regulatory and financial incentives are made~~
496 ~~available. The corporation shall fund at least one eligible~~
497 ~~project in as many counties and regions of the state as is~~
498 ~~practicable, consistent with program goals.~~
499 (6)~~(8)~~ Projects must be given ~~shall receive~~ priority
500 consideration for funding if ~~where~~:

501 (a) The local jurisdiction has adopted, or is committed to
502 adopting, appropriate regulatory incentives, ~~or the local~~
503 ~~jurisdiction or public-private partnership has adopted or is~~
504 ~~committed to adopting~~ local contributions or financial
505 strategies, or other funding sources to promote the development
506 and ongoing financial viability of such projects. Local
507 incentives include such actions as expediting review of
508 development orders and permits, supporting development near
509 transportation hubs and major employment centers, and adopting
510 land development regulations designed to allow flexibility in
511 densities, use of accessory units, mixed-use developments, and
512 flexible lot configurations. Financial strategies include such
513 actions as promoting employer-assisted housing programs,
514 providing tax increment financing, and providing land.
515 ~~(b) Projects are innovative and include new construction~~
516 ~~or rehabilitation; mixed-income housing; commercial and housing~~
517 ~~mixed-use elements; innovative design; green building~~
518 ~~principles; storm-resistant construction; or other elements that~~
519 ~~reduce long-term costs relating to maintenance, utilities, or~~
520 ~~insurance and promote homeownership. The program funding may not~~
521 ~~exceed the costs attributable to the portion of the project that~~
522 ~~is set aside to provide housing for the targeted population.~~
523 (b) ~~(c)~~ The projects ~~that~~ set aside at least 50 ~~at least 80~~
524 percent of the units for workforce housing ~~and at least 50~~
525 ~~percent for essential services personnel and for projects that~~

526 ~~require the least amount of program funding compared to the~~
527 ~~overall housing costs for the project~~.
528 ~~(9) Notwithstanding s. 163.3184(4)(b)-(d), any local~~
529 ~~government comprehensive plan amendment to implement a Community~~
530 ~~Workforce Housing Innovation Pilot Program project found~~
531 ~~consistent with this section shall be expedited as provided in~~
532 ~~this subsection. At least 30 days prior to adopting a plan~~
533 ~~amendment under this subsection, the local government shall~~
534 ~~notify the state land planning agency of its intent to adopt~~
535 ~~such an amendment, and the notice shall include its evaluation~~
536 ~~related to site suitability and availability of facilities and~~
537 ~~services. The public notice of the hearing required by s.~~
538 ~~163.3184(11)(b)2. shall include a statement that the local~~
539 ~~government intends to use the expedited adoption process~~
540 ~~authorized by this subsection. Such amendments shall require~~
541 ~~only a single public hearing before the governing board, which~~
542 ~~shall be an adoption hearing as described in s. 163.3184(4)(e).~~
543 ~~Any further proceedings shall be governed by s. 163.3184(5)-~~
544 ~~(13).~~
545 ~~(10) The processing of approvals of development orders or~~
546 ~~development permits, as defined in s. 163.3164, for innovative~~
547 ~~community workforce housing projects shall be expedited.~~
548 (7)~~(11)~~ The corporation shall award loans with a 1
549 ~~interest rates set at 1 to 3~~ percent interest rate for a term
550 that does not exceed 15 years~~, which may be made forgivable when~~

551 ~~long-term affordability is provided and when at least 80 percent~~
552 ~~of the units are set aside for workforce housing and at least 50~~
553 ~~percent of the units are set aside for essential services~~
554 ~~personnel~~.
555 ~~(12) All eligible applications shall:~~
556 ~~(a) For home ownership, limit the sales price of a~~
557 ~~detached unit, townhome, or condominium unit to not more than 90~~
558 ~~percent of the median sales price for that type of unit in that~~
559 ~~county, or the statewide median sales price for that type of~~
560 ~~unit, whichever is higher, and require that all eligible~~
561 ~~purchasers of home ownership units occupy the homes as their~~
562 ~~primary residence.~~
563 ~~(b) For rental units, restrict rents for all workforce~~
564 ~~housing serving those with incomes at or below 120 percent of~~
565 ~~area median income at the appropriate income level using the~~
566 ~~restricted rents for the federal low-income housing tax credit~~
567 ~~program and, for workforce housing units serving those with~~
568 ~~incomes above 120 percent of area median income, restrict rents~~
569 ~~to those established by the corporation, not to exceed 30~~
570 ~~percent of the maximum household income adjusted to unit size.~~
571 ~~(c) Demonstrate that the applicant is a public-private~~
572 ~~partnership in an agreement, contract, partnership agreement,~~
573 ~~memorandum of understanding, or other written instrument signed~~
574 ~~by all the project partners.~~
575 ~~(d) Have grants, donations of land, or contributions from~~

576 ~~the public-private partnership or other sources collectively~~
577 ~~totaling at least 10 percent of the total development cost or $2~~
578 ~~million, whichever is less. Such grants, donations of land, or~~
579 ~~contributions must be evidenced by a letter of commitment,~~
580 ~~agreement, contract, deed, memorandum of understanding, or other~~
581 ~~written instrument at the time of application. Grants, donations~~
582 ~~of land, or contributions in excess of 10 percent of the~~
583 ~~development cost shall increase the application score.~~
584 ~~(e) Demonstrate how the applicant will use the regulatory~~
585 ~~incentives and financial strategies outlined in subsection (8)~~
586 ~~from the local jurisdiction in which the proposed project is to~~
587 ~~be located. The corporation may consult with the Department of~~
588 ~~Economic Opportunity in evaluating the use of regulatory~~
589 ~~incentives by applicants.~~
590 ~~(f) Demonstrate that the applicant possesses title to or~~
591 ~~site control of land and evidences availability of required~~
592 ~~infrastructure.~~
593 ~~(g) Demonstrate the applicant's affordable housing~~
594 ~~development and management experience.~~
595 ~~(h) Provide any research or facts available supporting the~~
596 ~~demand and need for rental or home ownership workforce housing~~
597 ~~for eligible persons in the market in which the project is~~
598 ~~proposed.~~
599 ~~(13) Projects may include manufactured housing constructed~~
600 ~~after June 1994 and installed in accordance with mobile home~~

601 ~~installation standards of the Department of Highway Safety and~~
602 ~~Motor Vehicles.~~
603 (8) ~~(14)~~ The corporation may adopt rules pursuant to ss.
604 120.536(1) and 120.54 to implement this section.
605 ~~(15) The corporation may use a maximum of 2 percent of the~~
606 ~~annual program appropriation for administration and compliance~~
607 ~~monitoring.~~
608 ~~(16) The corporation shall review the success of the Community~~
609 ~~Workforce Housing Innovation Pilot Program to ascertain whether~~
610 ~~the projects financed by the program are useful in meeting the~~
611 ~~housing needs of eligible areas and shall include its findings~~
612 ~~in the annual report required under s. 420.511(3).~~
613 Section 13. Section 420.531, Florida Statutes, is amended
614 to read:
615 420.531 Affordable Housing Catalyst Program.—
616 (1) The corporation shall operate the Affordable Housing
617 Catalyst Program for the purpose of securing the expertise
618 necessary to provide specialized technical support to local
619 governments and community-based organizations to implement the
620 HOME Investment Partnership Program, State Apartment Incentive
621 Loan Program, State Housing Initiatives Partnership Program, and
622 other affordable housing programs. To the maximum extent
623 feasible, the entity to provide the necessary expertise must be
624 recognized by the Internal Revenue Service as a nonprofit tax-
625 exempt organization. It must have as its primary mission the

626 provision of affordable housing training and technical
627 assistance, an ability to provide training and technical
628 assistance statewide, and a proven track record of successfully
629 providing training and technical assistance under the Affordable
630 Housing Catalyst Program. The technical support shall, at a
631 minimum, include training relating to the following key elements
632 of the partnership programs:
633 (a) ~~(1)~~ Formation of local and regional housing
634 partnerships as a means of bringing together resources to
635 provide affordable housing.
636 (b) ~~(2)~~ Implementation of regulatory reforms to reduce the
637 risk and cost of developing affordable housing.
638 (c) ~~(3)~~ Implementation of affordable housing programs
639 included in local government comprehensive plans.
640 (d) ~~(4)~~ Compliance with requirements of federally funded
641 housing programs.
642 (2) In consultation with the corporation, the entity
643 providing statewide training and technical assistance shall
644 convene and administer biannual regional workshops for the
645 locally elected officials serving on affordable housing advisory
646 committees as provided in s. 420.9076. The regional workshops
647 may be conducted through teleconferencing or other technological
648 means and must include processes and programming that facilitate
649 peer-to-peer identification and sharing of best affordable
650 housing practices among the locally elected officials. Annually,

651 the entity providing statewide training and technical assistance
652 must compile calendar year reports summarizing the
653 deliberations, actions, and recommendations of each region, as
654 well as the attendance records of locally elected officials, and
655 must submit such reports to the President of the Senate, the
656 Speaker of the House of Representatives, and the corporation by
657 March 31 of the following year.
658 Section 14. Subsection (7) of section 420.9073, Florida
659 Statutes, is renumbered as subsection (8), and a new subsection
660 (7) is added to that section to read:
661 420.9073 Local housing distributions.—
662 (7) Notwithstanding subsections (1)-(4), the corporation
663 may withhold up to 5 percent of the total amount distributed
664 each fiscal year from the Local Government Housing Trust Fund to
665 provide additional funding to counties and eligible
666 municipalities for the construction of transitional housing for
667 persons aging out of foster care. Funds may not be used for the
668 design or planning of transitional housing and the housing must
669 be constructed on campus. The corporation must consult with the
670 Department of Children and Families to create minimum criteria
671 for such housing. Any portion of the withheld funds not
672 distributed or committed by the end of the fiscal year shall be
673 distributed as provided in subsections (1) and (2).
674 Section 15. Paragraph (j) is added to subsection (10) of
675 section 420.9075, Florida Statutes, to read:

676 420.9075 Local housing assistance plans; partnerships.—
677 (10) Each county or eligible municipality shall submit to
678 the corporation by September 15 of each year a report of its
679 affordable housing programs and accomplishments through June 30
680 immediately preceding submittal of the report. The report shall
681 be certified as accurate and complete by the local government's
682 chief elected official or his or her designee. Transmittal of
683 the annual report by a county's or eligible municipality's chief
684 elected official, or his or her designee, certifies that the
685 local housing incentive strategies, or, if applicable, the local
686 housing incentive plan, have been implemented or are in the
687 process of being implemented pursuant to the adopted schedule
688 for implementation. The report must include, but is not limited
689 to:
690 (j) The number of affordable housing applications that
691 were submitted, the number of such applications that were
692 approved, and the number of such applications that were denied.
693 Section 16. Subsections (2) and (4) of section 420.9076,
694 Florida Statutes, are amended, and subsection (10) is added to
695 that section, to read:
696 420.9076 Adoption of affordable housing incentive
697 strategies; committees.—
698 (2) The governing board of a county or municipality shall
699 appoint the members of the affordable housing advisory
700 committee. Pursuant to the terms of any interlocal agreement, a

701 county and municipality may create and jointly appoint an
702 advisory committee. The local action adopted pursuant to s.
703 420.9072 which creates the advisory committee and appoints the
704 advisory committee members must name at least 8 but not more
705 than 11 committee members and specify their terms. Effective
706 October 1, 2020, the committee must consist of one locally
707 elected official from each county or municipality participating
708 in the State Housing Initiatives Partnership Program and one
709 representative from at least six of the categories below:
710 (a) A citizen who is actively engaged in the residential
711 home building industry in connection with affordable housing.
712 (b) A citizen who is actively engaged in the banking or
713 mortgage banking industry in connection with affordable housing.
714 (c) A citizen who is a representative of those areas of
715 labor actively engaged in home building in connection with
716 affordable housing.
717 (d) A citizen who is actively engaged as an advocate for
718 low-income persons in connection with affordable housing.
719 (e) A citizen who is actively engaged as a for-profit
720 provider of affordable housing.
721 (f) A citizen who is actively engaged as a not-for-profit
722 provider of affordable housing.
723 (g) A citizen who is actively engaged as a real estate
724 professional in connection with affordable housing.
725 (h) A citizen who actively serves on the local planning

726 agency pursuant to s. 163.3174. If the local planning agency is
727 comprised of the governing board of the county or municipality,
728 the governing board may appoint a designee who is knowledgeable
729 in the local planning process.
730 (i) A citizen who resides within the jurisdiction of the
731 local governing body making the appointments.
732 (j) A citizen who represents employers within the
733 jurisdiction.
734 (k) A citizen who represents essential services personnel,
735 as defined in the local housing assistance plan.
736 (4) Annually ~~Triennially~~, the advisory committee shall
737 review the established policies and procedures, ordinances, land
738 development regulations, and adopted local government
739 comprehensive plan of the appointing local government and shall
740 recommend specific actions or initiatives to encourage or
741 facilitate affordable housing while protecting the ability of
742 the property to appreciate in value. The recommendations may
743 include the modification or repeal of existing policies,
744 procedures, ordinances, regulations, or plan provisions; the
745 creation of exceptions applicable to affordable housing; or the
746 adoption of new policies, procedures, regulations, ordinances,
747 or plan provisions, including recommendations to amend the local
748 government comprehensive plan and corresponding regulations,
749 ordinances, and other policies. At a minimum, each advisory
750 committee shall submit an annual ~~a~~ report to the local governing

751 body and to the entity providing statewide training and
752 technical assistance for the Affordable Housing Catalyst Program
753 which ~~that~~ includes recommendations on~~, and triennially~~
754 ~~thereafter evaluates~~ the implementation of~~,~~ affordable housing
755 incentives in the following areas:
756 (a) The processing of approvals of development orders or
757 permits for affordable housing projects is expedited to a
758 greater degree than other projects, as provided in s.
759 163.3177(6)(f)3.
760 (b) All allowable fee waivers provided ~~The modification of~~
761 ~~impact-fee requirements, including reduction or waiver of fees~~
762 ~~and alternative methods of fee payment~~ for the development or
763 construction of affordable housing.
764 (c) The allowance of flexibility in densities for
765 affordable housing.
766 (d) The reservation of infrastructure capacity for housing
767 for very-low-income persons, low-income persons, and moderate-
768 income persons.
769 (e) ~~The allowance of~~ Affordable accessory residential
770 units ~~in residential zoning districts~~.
771 (f) The reduction of parking and setback requirements for
772 affordable housing.
773 (g) The allowance of flexible lot configurations,
774 including zero-lot-line configurations for affordable housing.
775 (h) The modification of street requirements for affordable

776 housing.
777 (i) The establishment of a process by which a local
778 government considers, before adoption, policies, procedures,
779 ordinances, regulations, or plan provisions that increase the
780 cost of housing.
781 (j) The preparation of a printed inventory of locally
782 owned public lands suitable for affordable housing.
783 (k) The support of development near transportation hubs
784 and major employment centers and mixed-use developments.
785
786 The advisory committee recommendations may also include other
787 affordable housing incentives identified by the advisory
788 committee. Local governments that receive the minimum allocation
789 under the State Housing Initiatives Partnership Program shall
790 perform an ~~the~~ initial review but may elect to not perform the
791 annual ~~triennial~~ review.
792 (10) The locally elected official serving on an advisory
793 committee, or a locally elected designee, must attend biannual
794 regional workshops convened and administered under the
795 Affordable Housing Catalyst Program as provided in s.
796 420.531(2). If the locally elected official or locally elected
797 designee fails to attend three consecutive regional workshops,
798 the corporation may withhold funds pending the person's
799 attendance at the next regularly scheduled biannual meeting.
800 Section 17. Subsection (4) of section 723.011, Florida

801 Statutes, is amended to read:
802 723.011 Disclosure prior to rental of a mobile home lot;
803 prospectus, filing, approval.—
804 (4) With regard to a tenancy in existence on the effective
805 date of this chapter, the prospectus or offering circular
806 offered by the mobile home park owner must ~~shall~~ contain the
807 same terms and conditions as rental agreements offered to all
808 other mobile home owners residing in the park on the effective
809 date of this act, excepting only rent variations based upon lot
810 location and size, and may ~~shall~~ not require any mobile home
811 owner to install any permanent improvements, except that the
812 mobile home owner may be required to install permanent
813 improvements to the mobile home as disclosed in the prospectus.
814 Section 18. Subsection (5) of section 723.012, Florida
815 Statutes, is amended to read:
816 723.012 Prospectus or offering circular.—The prospectus or
817 offering circular, which is required to be provided by s.
818 723.011, must contain the following information:
819 (5) A description of the recreational and other common
820 facilities, if any, that will be used by the mobile home owners,
821 including, but not limited to:
822 (a) The number of buildings and each room thereof and its
823 intended purposes, location, approximate floor area, and
824 capacity in numbers of people.
825 (b) Each swimming pool, as to its general location,

826 approximate size and depths, and approximate deck size and
827 capacity and whether heated.
828 (c) All other facilities and permanent improvements that
829 ~~which~~ will serve the mobile home owners.
830 (d) A general description of the items of personal
831 property available for use by the mobile home owners.
832 (e) A general description of the days and hours that
833 facilities will be available for use.
834 (f) A statement as to whether all improvements are
835 complete and, if not, their estimated completion dates.
836
837 If a mobile home park owner intends to include additional
838 property and mobile home lots and to increase the number of lots
839 that will use the shared facilities of the park, the mobile home
840 park owner must amend the prospectus to disclose such additions.
841 If the number of mobile home lots in the park increases by more
842 than 15 percent of the total number of lots in the original
843 prospectus, the mobile home park owner must reasonably offset
844 the impact of the additional lots by increasing the shared
845 facilities. The amendment to the prospectus must include a
846 reasonable timeframe for providing the required additional
847 shared facilities. The costs and expenses necessary to increase
848 the shared facilities may not be passed on or passed through to
849 the existing mobile home owners.
850 Section 19. Section 723.023, Florida Statutes, is amended

851 to read:
852 723.023 Mobile home owner's general obligations.—A mobile
853 home owner shall ~~at all times~~:
854 (1) At all times comply with all obligations imposed on
855 mobile home owners by applicable provisions of building,
856 housing, and health codes, including compliance with all
857 building permits and construction requirements for construction
858 on the mobile home and lot. The home owner is responsible for
859 all fines imposed by the local government for noncompliance with
860 any local codes.
861 (2) At all times keep the mobile home lot that ~~which~~ he or
862 she occupies clean, neat, and sanitary, and maintained in
863 compliance with all local codes.
864 (3) At all times comply with properly promulgated park
865 rules and regulations and require other persons on the premises
866 with his or her consent to comply with such rules and to conduct
867 themselves, and other persons on the premises with his or her
868 consent, in a manner that does not unreasonably disturb other
869 residents of the park or constitute a breach of the peace.
870 (4) Receive written approval from the mobile home park
871 owner before making any exterior modification or addition to the
872 home.
873 (5) When vacating the premises, remove any debris and
874 other property of any kind which is left on the mobile home lot.
875 Section 20. Subsection (5) of section 723.031, Florida

876 Statutes, is amended to read:
877 723.031 Mobile home lot rental agreements.—
878 (5) The rental agreement must ~~shall~~ contain the lot rental
879 amount and services included. An increase in lot rental amount
880 upon expiration of the term of the lot rental agreement must
881 ~~shall~~ be in accordance with ss. 723.033 and 723.037 or s.
882 723.059(4), whichever is applicable; ~~,~~ provided that, pursuant to
883 s. 723.059(4), the amount of the lot rental increase is
884 disclosed and agreed to by the purchaser, in writing. An
885 increase in lot rental amount shall not be arbitrary or
886 discriminatory between similarly situated tenants in the park. A
887 lot rental amount may not be increased during the term of the
888 lot rental agreement, except:
889 (a) When the manner of the increase is disclosed in a lot
890 rental agreement with a term exceeding 12 months and which
891 provides for such increases not more frequently than annually.
892 (b) For pass-through charges as defined in s. 723.003.
893 (c) That a charge may not be collected which results in
894 payment of money for sums previously collected as part of the
895 lot rental amount. The provisions hereof notwithstanding, the
896 mobile home park owner may pass on, at any time during the term
897 of the lot rental agreement, ad valorem property taxes, non-ad
898 valorem assessments, and utility charges, or increases of
899 either, provided that the ad valorem property taxes, non-ad
900 valorem assessments, and utility charges are not otherwise being

901 collected in the remainder of the lot rental amount and provided
902 further that the passing on of such ad valorem taxes, non-ad
903 valorem assessments, or utility charges, or increases of either,
904 was disclosed prior to tenancy, was being passed on as a matter
905 of custom between the mobile home park owner and the mobile home
906 owner, or such passing on was authorized by law. A park owner is
907 deemed to have disclosed the passing on of ad valorem property
908 taxes and non-ad valorem assessments if ad valorem property
909 taxes or non-ad valorem assessments were disclosed as a separate
910 charge or a factor for increasing the lot rental amount in the
911 prospectus or rental agreement. Such ad valorem taxes, non-ad
912 valorem assessments, and utility charges shall be a part of the
913 lot rental amount as defined by this chapter. The term "non-ad
914 valorem assessments" has the same meaning as provided in s.
915 197.3632(1)(d). Other provisions of this chapter
916 notwithstanding, pass-on charges may be passed on only within 1
917 year of the date a mobile home park owner remits payment of the
918 charge. A mobile home park owner is prohibited from passing on
919 any fine, interest, fee, or increase in a charge resulting from
920 a park owner's payment of the charge after the date such charges
921 become delinquent. A mobile home park owner is prohibited from
922 charging or collecting from the mobile home owners any sum for
923 ad valorem taxes or non-ad valorem tax charges in an amount in
924 excess of the sums remitted by the park owner to the tax
925 collector. Nothing herein shall prohibit a park owner and a

926 homeowner from mutually agreeing to an alternative manner of
927 payment to the park owner of the charges.
928 (d) If a notice of increase in lot rental amount is not
929 given 90 days before the renewal date of the rental agreement,
930 the rental agreement must remain under the same terms until a
931 90-day notice of increase in lot rental amount is given. The
932 notice may provide for a rental term shorter than 1 year in
933 order to maintain the same renewal date.
934 Section 21. Subsection (1) and paragraph (a) of subsection
935 (4) of section 723.037, Florida Statutes, are amended to read:
936 723.037 Lot rental increases; reduction in services or
937 utilities; change in rules and regulations; mediation.—
938 (1) A park owner shall give written notice to each
939 affected mobile home owner and the board of directors of the
940 homeowners' association, if one has been formed, at least 90
941 days before any increase in lot rental amount or reduction in
942 services or utilities provided by the park owner or change in
943 rules and regulations. The park owner may give notice of all
944 increases in lot rental amount for multiple anniversary dates in
945 the same 90-day notice. The notice must ~~shall~~ identify all other
946 affected homeowners, which may be by lot number, name, group, or
947 phase. If the affected homeowners are not identified by name,
948 the park owner shall make the names and addresses available upon
949 request. However, this requirement does not authorize the
950 release of the names, addresses, or other private information

951 about the homeowners to the association or any other person for
952 any other purpose. The home owner's right to the 90-day notice
953 may not be waived or precluded by a home owner, or the
954 homeowners' committee, in an agreement with the park owner.
955 Rules adopted as a result of restrictions imposed by
956 governmental entities and required to protect the public health,
957 safety, and welfare may be enforced prior to the expiration of
958 the 90-day period but are not otherwise exempt from the
959 requirements of this chapter. Pass-through charges must be
960 separately listed as to the amount of the charge, the name of
961 the governmental entity mandating the capital improvement, and
962 the nature or type of the pass-through charge being levied.
963 Notices of increase in the lot rental amount due to a pass-
964 through charge must ~~shall~~ state the additional payment and
965 starting and ending dates of each pass-through charge. The
966 homeowners' association shall have no standing to challenge the
967 increase in lot rental amount, reduction in services or
968 utilities, or change of rules and regulations unless a majority
969 of the affected homeowners agree, in writing, to such
970 representation.
971 (4)(a) A committee, not to exceed five in number,
972 designated by a majority of the affected mobile home owners or
973 by the board of directors of the homeowners' association, if
974 applicable, and the park owner shall meet, at a mutually
975 convenient time and place no later than 60 days before the

976 effective date of the change to discuss the reasons for the
977 increase in lot rental amount, reduction in services or
978 utilities, or change in rules and regulations. The negotiating
979 committee shall make a written request for a meeting with the
980 park owner or subdivision developer to discuss those matters
981 addressed in the 90-day notice, and may include in the request a
982 listing of any other issue, with supporting documentation, that
983 the committee intends to raise and discuss at the meeting. The
984 committee shall address all lot rental amount increases that are
985 specified in the notice of lot rental amount increase,
986 regardless of the effective date of the increase.
987
988 This subsection is not intended to be enforced by civil or
989 administrative action. Rather, the meetings and discussions are
990 intended to be in the nature of settlement discussions prior to
991 the parties proceeding to mediation of any dispute.
992 Section 22. Subsections (5) and (6) are added to section
993 723.041, Florida Statutes, to read:
994 723.041 Entrance fees; refunds; exit fees prohibited;
995 replacement homes.—
996 (5) A mobile home park that is damaged or destroyed due to
997 wind, water, or other natural force may be rebuilt on the same
998 site with the same density as was approved, permitted, and built
999 before the park was damaged or destroyed.
1000 (6) This section does not limit the regulation of the

1001 uniform firesafety standards established under s. 633.206, but
1002 supersedes any other density, separation, setback, or lot size
1003 regulation adopted after initial permitting and construction of
1004 the mobile home park.
1005 Section 23. Section 723.042, Florida Statutes, is amended
1006 to read:
1007 723.042 Provision of improvements.—A ~~No~~ person may not
1008 ~~shall~~ be required by a mobile home park owner or developer, as a
1009 condition of residence in the mobile home park, to provide any
1010 improvement unless the requirement is disclosed pursuant to s.
1011 723.012(7) ~~s. 723.011~~ prior to occupancy in the mobile home
1012 park.
1013 Section 24. Subsections (3) and (4) of section 723.059,
1014 Florida Statutes, are amended to read:
1015 723.059 ~~Rights of~~ Purchaser of a mobile home within a
1016 mobile home park.—
1017 (3) The purchaser of a mobile home who intends to become
1018 ~~becomes~~ a resident of the mobile home park in accordance with
1019 this section has the right to assume the remainder of the term
1020 of any rental agreement then in effect between the mobile home
1021 park owner and the seller and may assume the seller's
1022 prospectus. However, nothing herein shall prohibit a mobile home
1023 park owner from offering the purchaser of a mobile home any
1024 approved prospectus ~~shall be entitled to rely on the terms and~~
1025 ~~conditions of the prospectus or offering circular as delivered~~

1026 ~~to the initial recipient~~.
1027 (4) However, nothing herein shall be construed to prohibit
1028 a mobile home park owner from increasing the rental amount to be
1029 paid by the purchaser upon the expiration of the assumed rental
1030 agreement in an amount deemed appropriate by the mobile home
1031 park owner, so long as such increase is disclosed to the
1032 purchaser prior to his or her occupancy and is imposed in a
1033 manner consistent with the purchaser's ~~initial offering circular~~
1034 ~~or~~ prospectus and this act.
1035 Section 25. Paragraph (d) of subsection (1) of section
1036 723.061, Florida Statutes, is amended, and subsection (5) is
1037 added to that section, to read:
1038 723.061 Eviction; grounds, proceedings.—
1039 (1) A mobile home park owner may evict a mobile home
1040 owner, a mobile home tenant, a mobile home occupant, or a mobile
1041 home only on one or more of the following grounds:
1042 (d) Change in use of the land comprising the mobile home
1043 park, or the portion thereof from which mobile homes are to be
1044 evicted, from mobile home lot rentals to some other use, if:
1045 1. The park owner gives written notice to the homeowners'
1046 association formed and operating under ss. 723.075-723.079 of
1047 its right to purchase the mobile home park, if the land
1048 comprising the mobile home park is changing use from mobile home
1049 lot rentals to a different use, at the price and under the terms
1050 and conditions set forth in the written notice.

1051 a. The notice shall be delivered to the officers of the
1052 homeowners' association by United States mail. Within 45 days
1053 after the date of mailing of the notice, the homeowners'
1054 association may execute and deliver a contract to the park owner
1055 to purchase the mobile home park at the price and under the
1056 terms and conditions set forth in the notice. If the contract
1057 between the park owner and the homeowners' association is not
1058 executed and delivered to the park owner within the 45-day
1059 period, the park owner is under no further obligation to the
1060 homeowners' association except as provided in sub-subparagraph
1061 b.
1062 b. If the park owner elects to offer or sell the mobile
1063 home park at a price lower than the price specified in her or
1064 his initial notice to the officers of the homeowners'
1065 association, the homeowners' association has an additional 10
1066 days to meet the revised price, terms, and conditions of the
1067 park owner by executing and delivering a revised contract to the
1068 park owner.
1069 c. The park owner is not obligated under this subparagraph
1070 or s. 723.071 to give any other notice to, or to further
1071 negotiate with, the homeowners' association for the sale of the
1072 mobile home park to the homeowners' association after 6 months
1073 after the date of the mailing of the initial notice under sub-
1074 subparagraph a.
1075 2. The park owner gives the affected mobile home owners

1076 and tenants at least 6 months' notice of the eviction due to the
1077 projected change in use and of their need to secure other
1078 accommodations. Within 20 days after giving an eviction notice
1079 to a mobile home owner, the park owner must provide the division
1080 with a copy of the notice. The division must provide the
1081 executive director of the Florida Mobile Home Relocation
1082 Corporation with a copy of the notice.
1083 a. The notice of eviction due to a change in use of the
1084 land must include in a font no smaller than the body of the
1085 notice the following statement:
1086
1087 YOU MAY BE ENTITLED TO COMPENSATION FROM THE FLORIDA MOBILE HOME
1088 RELOCATION TRUST FUND, ADMINISTERED BY THE FLORIDA MOBILE HOME
1089 RELOCATION CORPORATION (FMHRC). FMHRC CONTACT INFORMATION IS
1090 AVAILABLE FROM THE FLORIDA DEPARTMENT OF BUSINESS AND
1091 PROFESSIONAL REGULATION.
1092
1093 b. The park owner may not give a notice of increase in lot
1094 rental amount within 90 days before giving notice of a change in
1095 use.
1096 (5) A park owner who accepts payment of any portion of the
1097 lot rental amount with actual knowledge of noncompliance after
1098 notice and termination of the rental agreement due to a
1099 violation under paragraph (1)(b), paragraph (1)(c), or paragraph
1100 (1)(e) does not waive the right to terminate the rental

1101 agreement or the right to bring a civil action for the
1102 noncompliance, but not for any subsequent or continuing
1103 noncompliance. Any rent so received must be accounted for at the
1104 final hearing.
1105 Section 26. Subsection (1) of section 723.076, Florida
1106 Statutes, is amended to read:
1107 723.076 Incorporation; notification of park owner.—
1108 (1) Upon receipt of its certificate of incorporation, the
1109 homeowners' association shall notify the park owner in writing
1110 of such incorporation and shall advise the park owner of the
1111 names and addresses of the officers of the homeowners'
1112 association by personal delivery upon the park owner's
1113 representative as designated in the prospectus or by certified
1114 mail, return receipt requested. Thereafter, the homeowners'
1115 association shall notify the park owner in writing by certified
1116 mail, return receipt requested, of any change of names and
1117 addresses of its president or registered agent. Upon election or
1118 appointment of new officers or members, the homeowners'
1119 association shall notify the park owner in writing by certified
1120 mail, return receipt requested, of the names and addresses of
1121 the new officers or members.
1122 Section 27. Paragraphs (b) through (e) of subsection (2)
1123 of section 723.078, Florida Statutes, are amended, and paragraph
1124 (i) of that subsection is reenacted, to read:
1125 723.078 Bylaws of homeowners' associations.—

1126 (2) The bylaws shall provide and, if they do not, shall be
1127 deemed to include, the following provisions:
1128 (b) Quorum; voting requirements; proxies.—
1129 1. Unless otherwise provided in the bylaws, 30 percent of
1130 the total membership is required to constitute a quorum.
1131 Decisions shall be made by a majority of members represented at
1132 a meeting at which a quorum is present.
1133 2.a. A member may not vote by general proxy but may vote
1134 by limited proxies substantially conforming to a limited proxy
1135 form adopted by the division. Limited proxies and general
1136 proxies may be used to establish a quorum. Limited proxies may
1137 be used for votes taken to amend the articles of incorporation
1138 or bylaws pursuant to this section, and any other matters for
1139 which this chapter requires or permits a vote of members. A~~,~~
1140 ~~except that no~~ proxy, limited or general, may not be used in the
1141 election of board members in general elections or elections to
1142 fill vacancies caused by recall, resignation, or otherwise.
1143 Board members must be elected by written ballot or by voting in
1144 person. If a mobile home or subdivision lot is owned jointly,
1145 the owners of the mobile home or subdivision lot must be counted
1146 as one for the purpose of determining the number of votes
1147 required for a majority. Only one vote per mobile home or
1148 subdivision lot shall be counted. Any number greater than 50
1149 percent of the total number of votes constitutes a majority.
1150 Notwithstanding this section, members may vote in person at

1151 member meetings or by secret ballot, including absentee ballots,
1152 as defined by the division.
1153 b. Elections shall be decided by a plurality of the
1154 ballots cast. There is no quorum requirement; however, at least
1155 20 percent of the eligible voters must cast a ballot in order to
1156 have a valid election. A member may not allow any other person
1157 to cast his or her ballot, and any ballots improperly cast are
1158 invalid. An election is not required unless there are more
1159 candidates nominated than vacancies that exist on the board.
1160 c. Each member or other eligible person who desires to be
1161 a candidate for the board of directors shall appear on the
1162 ballot in alphabetical order by surname. A ballot may not
1163 indicate if any of the candidates are incumbent on the board.
1164 All ballots must be uniform in appearance. Write-in candidates
1165 and more than one vote per candidate per ballot are not allowed.
1166 A ballot may not provide a space for the signature of, or any
1167 other means of identifying, a voter. If a ballot contains more
1168 votes than vacancies or fewer votes than vacancies, the ballot
1169 is invalid unless otherwise stated in the bylaws.
1170 d. An impartial committee shall be responsible for
1171 overseeing the election process and complying with all ballot
1172 requirements. For purposes of this section, the term "impartial
1173 committee" means a committee whose members do not include any of
1174 the following people or their spouses:
1175 (I) Current board members.

1176 (II) Current association officers.
1177 (III) Candidates for the association or board.
1178 e. The association bylaws shall provide a method for
1179 determining the winner of an election in which two or more
1180 candidates for the same position receive the same number of
1181 votes.
1182 f. A person who has been convicted of a felony in this
1183 state or in a United States District Court or Territorial Court,
1184 or who has been convicted of any offense in another jurisdiction
1185 which would be considered a felony if committed in this state,
1186 may not seek election to the board and is not eligible for board
1187 membership unless the person's civil rights have been restored
1188 for at least 5 years before the date on which the person seeks
1189 election to the board. The validity of an action taken by the
1190 board is not affected if it is later determined that a member of
1191 the board is ineligible for board membership.
1192 g. The division shall adopt procedural rules to govern
1193 elections, including, but not limited to, rules for providing
1194 notice by electronic transmission and rules for maintaining the
1195 secrecy of ballots.
1196 3. A proxy is effective only for the specific meeting for
1197 which originally given and any lawfully adjourned meetings
1198 thereof. In no event shall any proxy be valid for a period
1199 longer than 90 days after the date of the first meeting for
1200 which it was given. Every proxy shall be revocable at any time

1201 at the pleasure of the member executing it.
1202 4. A member of the board of directors or a committee may
1203 submit in writing his or her agreement or disagreement with any
1204 action taken at a meeting that the member did not attend. This
1205 agreement or disagreement may not be used as a vote for or
1206 against the action taken and may not be used for the purposes of
1207 creating a quorum.
1208 (c) Board of directors' and committee meetings.—
1209 1. Meetings of the board of directors and meetings of its
1210 committees at which a quorum is present shall be open to all
1211 members. Notwithstanding any other provision of law, the
1212 requirement that board meetings and committee meetings be open
1213 to the members does not apply to meetings between the park owner
1214 and the board of directors or any of the board's committees,
1215 board or committee meetings held for the purpose of discussing
1216 personnel matters, or meetings between the board or a committee
1217 and the association's attorney, with respect to potential or
1218 pending litigation, when ~~where~~ the meeting is held for the
1219 purpose of seeking or rendering legal advice, and when ~~where~~ the
1220 contents of the discussion would otherwise be governed by the
1221 attorney-client privilege. Notice of all meetings open to
1222 members shall be posted in a conspicuous place upon the park
1223 property at least 48 hours in advance, except in an emergency.
1224 Notice of any meeting in which dues ~~assessments~~ ~~against members~~
1225 are to be considered for any reason shall specifically contain a

1226 statement that dues ~~assessments~~ will be considered and the
1227 nature of such dues ~~assessments~~.
1228 2. A board or committee member's participation in a
1229 meeting via telephone, real-time videoconferencing, or similar
1230 real-time telephonic, electronic, or video communication counts
1231 toward a quorum, and such member may vote as if physically
1232 present. A speaker shall be used so that the conversation of
1233 those board or committee members attending by telephone may be
1234 heard by the board or committee members attending in person, as
1235 well as by members present at a meeting.
1236 3. Members of the board of directors may use e-mail as a
1237 means of communication but may not cast a vote on an association
1238 matter via e-mail.
1239 4. The right to attend meetings of the board of directors
1240 and its committees includes the right to speak at such meetings
1241 with reference to all designated agenda items. The association
1242 may adopt reasonable written rules governing the frequency,
1243 duration, and manner of members' statements. Any item not
1244 included on the notice may be taken up on an emergency basis by
1245 at least a majority plus one of the members of the board. Such
1246 emergency action shall be noticed and ratified at the next
1247 regular meeting of the board. Any member may tape record or
1248 videotape meetings of the board of directors and its committees,
1249 except meetings between the board of directors or its appointed
1250 homeowners' committee and the park owner. The division shall

1251 adopt reasonable rules governing the tape recording and
1252 videotaping of the meeting.
1253 5. Except as provided in paragraph (i), a vacancy
1254 occurring on the board of directors may be filled by the
1255 affirmative vote of the majority of the remaining directors,
1256 even though the remaining directors constitute less than a
1257 quorum; by the sole remaining director; if the vacancy is not so
1258 filled or if no director remains, by the members; or, on the
1259 application of any person, by the circuit court of the county in
1260 which the registered office of the corporation is located.
1261 6. The term of a director elected or appointed to fill a
1262 vacancy expires at the next annual meeting at which directors
1263 are elected. A directorship to be filled by reason of an
1264 increase in the number of directors may be filled by the board
1265 of directors, but only for the term of office continuing until
1266 the next election of directors by the members.
1267 7. A vacancy that will occur at a specific later date, by
1268 reason of a resignation effective at a later date, may be filled
1269 before the vacancy occurs. However, the new director may not
1270 take office until the vacancy occurs.
1271 8.a. The officers and directors of the association have a
1272 fiduciary relationship to the members.
1273 b. A director and committee member shall discharge his or
1274 her duties in good faith, with the care an ordinarily prudent
1275 person in a like position would exercise under similar

1276 circumstances, and in a manner he or she reasonably believes to
1277 be in the best interests of the corporation.
1278 9. In discharging his or her duties, a director may rely
1279 on information, opinions, reports, or statements, including
1280 financial statements and other financial data, if prepared or
1281 presented by:
1282 a. One or more officers or employees of the corporation
1283 who the director reasonably believes to be reliable and
1284 competent in the matters presented;
1285 b. Legal counsel, public accountants, or other persons as
1286 to matters the director reasonably believes are within the
1287 persons' professional or expert competence; or
1288 c. A committee of the board of directors of which he or
1289 she is not a member if the director reasonably believes the
1290 committee merits confidence.
1291 10. A director is not acting in good faith if he or she
1292 has knowledge concerning the matter in question that makes
1293 reliance otherwise permitted by subparagraph 9. unwarranted.
1294 11. A director is not liable for any action taken as a
1295 director, or any failure to take any action, if he or she
1296 performed the duties of his or her office in compliance with
1297 this section.
1298 (d) Member meetings.—Members shall meet at least once each
1299 calendar year, and the meeting shall be the annual meeting. All
1300 members of the board of directors shall be elected at the annual

1301 meeting unless the bylaws provide for staggered election terms
1302 or for their election at another meeting. The bylaws shall not
1303 restrict any member desiring to be a candidate for board
1304 membership from being nominated from the floor. All nominations
1305 from the floor must be made at a duly noticed meeting of the
1306 members held at least 27 ~~30~~ days before the annual meeting. The
1307 bylaws shall provide the method for calling the meetings of the
1308 members, including annual meetings. The method shall provide at
1309 least 14 days' written notice to each member in advance of the
1310 meeting and require the posting in a conspicuous place on the
1311 park property of a notice of the meeting at least 14 days prior
1312 to the meeting. The right to receive written notice of
1313 membership meetings may be waived in writing by a member. Unless
1314 waived, the notice of the annual meeting shall be mailed, hand
1315 delivered, or electronically transmitted to each member, and
1316 shall constitute notice. Unless otherwise stated in the bylaws,
1317 an officer of the association shall provide an affidavit
1318 affirming that the notices were mailed, ~~or~~ hand delivered, or
1319 provided by electronic transmission in accordance with ~~the~~
1320 ~~provisions of~~ this section to each member at the address last
1321 furnished to the corporation. These meeting requirements do not
1322 prevent members from waiving notice of meetings or from acting
1323 by written agreement without meetings, if allowed by the bylaws.
1324 (e) Minutes of meetings.—
1325 1. Notwithstanding any other provision of law, the minutes

1326 of board or committee meetings that are closed to members are
1327 privileged and confidential and are not available for inspection
1328 or photocopying.
1329 2. Minutes of all meetings of members of an association
1330 and meetings open to members of~~,~~ the board of directors~~,~~ and a
1331 committee of the board must be maintained in written form and
1332 approved by the members, board, or committee, as applicable. A
1333 vote or abstention from voting on each matter voted upon for
1334 each director present at a board meeting must be recorded in the
1335 minutes.
1336 3.~~2.~~ All approved minutes of open meetings of members,
1337 committees, and the board of directors shall be kept in a
1338 businesslike manner and shall be available for inspection by
1339 members, or their authorized representatives, and board members
1340 at reasonable times. The association shall retain these minutes
1341 within this state for ~~a period of~~ at least 5 ~~7~~ years.
1342 (i) Recall of board members.—Any member of the board of
1343 directors may be recalled and removed from office with or
1344 without cause by the vote of or agreement in writing by a
1345 majority of all members. A special meeting of the members to
1346 recall a member or members of the board of directors may be
1347 called by 10 percent of the members giving notice of the meeting
1348 as required for a meeting of members, and the notice shall state
1349 the purpose of the meeting. Electronic transmission may not be
1350 used as a method of giving notice of a meeting called in whole

1351 or in part for this purpose.
1352 1. If the recall is approved by a majority of all members
1353 by a vote at a meeting, the recall is effective as provided in
1354 this paragraph. The board shall duly notice and hold a board
1355 meeting within 5 full business days after the adjournment of the
1356 member meeting to recall one or more board members. At the
1357 meeting, the board shall either certify the recall, in which
1358 case such member or members shall be recalled effective
1359 immediately and shall turn over to the board within 5 full
1360 business days any and all records and property of the
1361 association in their possession, or shall proceed under
1362 subparagraph 3.
1363 2. If the proposed recall is by an agreement in writing by
1364 a majority of all members, the agreement in writing or a copy
1365 thereof shall be served on the association by certified mail or
1366 by personal service in the manner authorized by chapter 48 and
1367 the Florida Rules of Civil Procedure. The board of directors
1368 shall duly notice and hold a meeting of the board within 5 full
1369 business days after receipt of the agreement in writing. At the
1370 meeting, the board shall either certify the written agreement to
1371 recall members of the board, in which case such members shall be
1372 recalled effective immediately and shall turn over to the board,
1373 within 5 full business days, any and all records and property of
1374 the association in their possession, or shall proceed as
1375 described in subparagraph 3.

1376 3. If the board determines not to certify the written
1377 agreement to recall members of the board, or does not certify
1378 the recall by a vote at a meeting, the board shall, within 5
1379 full business days after the board meeting, file with the
1380 division a petition for binding arbitration pursuant to the
1381 procedures of s. 723.1255. For purposes of this paragraph, the
1382 members who voted at the meeting or who executed the agreement
1383 in writing shall constitute one party under the petition for
1384 arbitration. If the arbitrator certifies the recall of a member
1385 of the board, the recall shall be effective upon mailing of the
1386 final order of arbitration to the association. If the
1387 association fails to comply with the order of the arbitrator,
1388 the division may take action under s. 723.006. A member so
1389 recalled shall deliver to the board any and all records and
1390 property of the association in the member's possession within 5
1391 full business days after the effective date of the recall.
1392 4. If the board fails to duly notice and hold a board
1393 meeting within 5 full business days after service of an
1394 agreement in writing or within 5 full business days after the
1395 adjournment of the members' recall meeting, the recall shall be
1396 deemed effective and the board members so recalled shall
1397 immediately turn over to the board all records and property of
1398 the association.
1399 5. If the board fails to duly notice and hold the required
1400 meeting or fails to file the required petition, the member's

1401 representative may file a petition pursuant to s. 723.1255
1402 challenging the board's failure to act. The petition must be
1403 filed within 60 days after expiration of the applicable 5-full-
1404 business-day period. The review of a petition under this
1405 subparagraph is limited to the sufficiency of service on the
1406 board and the facial validity of the written agreement or
1407 ballots filed.
1408 6. If a vacancy occurs on the board as a result of a
1409 recall and less than a majority of the board members are
1410 removed, the vacancy may be filled by the affirmative vote of a
1411 majority of the remaining directors, notwithstanding any other
1412 provision of this chapter. If vacancies occur on the board as a
1413 result of a recall and a majority or more of the board members
1414 are removed, the vacancies shall be filled in accordance with
1415 procedural rules to be adopted by the division, which rules need
1416 not be consistent with this chapter. The rules must provide
1417 procedures governing the conduct of the recall election as well
1418 as the operation of the association during the period after a
1419 recall but before the recall election.
1420 7. A board member who has been recalled may file a
1421 petition pursuant to s. 723.1255 challenging the validity of the
1422 recall. The petition must be filed within 60 days after the
1423 recall is deemed certified. The association and the member's
1424 representative shall be named as the respondents.
1425 8. The division may not accept for filing a recall

1426 petition, whether or not filed pursuant to this subsection, and
1427 regardless of whether the recall was certified, when there are
1428 60 or fewer days until the scheduled reelection of the board
1429 member sought to be recalled or when 60 or fewer days have not
1430 elapsed since the election of the board member sought to be
1431 recalled.
1432 Section 28. Paragraphs (d) and (f) through (i) of
1433 subsection (4) and subsection (5) of section 723.079, Florida
1434 Statutes, are amended to read:
1435 723.079 Powers and duties of homeowners' association.—
1436 (4) The association shall maintain the following items,
1437 when applicable, which constitute the official records of the
1438 association:
1439 (d) The approved minutes of all meetings of the members of
1440 an association and meetings open for members of~~,~~ the board of
1441 directors, and committees of the board, which minutes must be
1442 retained within this ~~the~~ state for at least 5 ~~7~~ years.
1443 (f) All of the association's insurance policies or copies
1444 thereof, which must be retained within this state for at least 5
1445 ~~7~~ years after the expiration date of the policy.
1446 (g) A copy of all contracts or agreements to which the
1447 association is a party, including, without limitation, any
1448 written agreements with the park owner, lease, or other
1449 agreements or contracts under which the association or its
1450 members has any obligation or responsibility, which must be

1451 retained within this state for at least 5 ~~7~~ years after the
1452 expiration date of the contract or agreement.
1453 (h) The financial and accounting records of the
1454 association, kept according to good accounting practices. All
1455 financial and accounting records must be maintained within this
1456 state for a ~~period of~~ at least 5 ~~7~~ years. The financial and
1457 accounting records must include:
1458 1. Accurate, itemized, and detailed records of all
1459 receipts and expenditures.
1460 2. A current account and a periodic statement of the
1461 account for each member, designating the name and current
1462 address of each member who is obligated to pay dues or
1463 assessments, the due date and amount of each assessment or other
1464 charge against the member, the date and amount of each payment
1465 on the account, and the balance due.
1466 3. All tax returns, financial statements, and financial
1467 reports of the association.
1468 4. Any other records that identify, measure, record, or
1469 communicate financial information.
1470 (i) All other written records of the association not
1471 specifically included in the foregoing which are related to the
1472 operation of the association must be retained within this state
1473 for at least 5 years or at least 5 years after the expiration
1474 date, as applicable.
1475 (5) The official records shall be ~~maintained within the~~

1476 ~~state for at least 7 years and shall be~~ made available to a
1477 member for inspection or photocopying within 20 ~~10~~ business days
1478 after receipt by the board or its designee of a written request
1479 submitted by certified mail, return receipt requested. The
1480 requirements of this subsection are satisfied by having a copy
1481 of the official records available for inspection or copying in
1482 the park or, at the option of the association, by making the
1483 records available to a member electronically via the Internet or
1484 by allowing the records to be viewed in electronic format on a
1485 computer screen and printed upon request. If the association has
1486 a photocopy machine available where the records are maintained,
1487 it must provide a member with copies on request during the
1488 inspection if the entire request is no more than 25 pages. An
1489 association shall allow a member or his or her authorized
1490 representative to use a portable device, including a smartphone,
1491 tablet, portable scanner, or any other technology capable of
1492 scanning or taking photographs, to make an electronic copy of
1493 the official records in lieu of the association's providing the
1494 member or his or her authorized representative with a copy of
1495 such records. The association may not charge a fee to a member
1496 or his or her authorized representative for the use of a
1497 portable device.
1498 (a) The failure of an association to provide access to the
1499 records within 20 ~~10~~ business days after receipt of a written
1500 request submitted by certified mail, return receipt requested,

1501 creates a rebuttable presumption that the association willfully
1502 failed to comply with this subsection.
1503 (b) A member who is denied access to official records is
1504 entitled to ~~the actual damages or minimum~~ damages for the
1505 association's willful failure to comply with this subsection in
1506 the amount of~~. The minimum damages are to be~~ $10 per calendar
1507 day up to 10 days, not to exceed $100. The calculation for
1508 damages begins ~~to begin~~ on the 21st ~~11th~~ business day after
1509 receipt of the written request, submitted by certified mail,
1510 return receipt requested.
1511 (c) A dispute between a member and an association
1512 regarding inspecting or photocopying official records must be
1513 submitted to mandatory binding arbitration with the division,
1514 and the arbitration must be conducted pursuant to s. 723.1255
1515 and procedural rules adopted by the division.
1516 (d) The association may adopt reasonable written rules
1517 governing the frequency, time, location, notice, records to be
1518 inspected, and manner of inspections, but may not require a
1519 member to demonstrate a proper purpose for the inspection, state
1520 a reason for the inspection, or limit a member's right to
1521 inspect records to less than 1 business day per month. The
1522 association may impose fees to cover the costs of providing
1523 copies of the official records, including the costs of copying
1524 and for personnel to retrieve and copy the records if the time
1525 spent retrieving and copying the records exceeds 30 minutes and

1526 if the personnel costs do not exceed $20 per hour. Personnel
1527 costs may not be charged for records requests that result in the
1528 copying of 25 or fewer pages. The association may charge up to
1529 25 cents per page for copies made on the association's
1530 photocopier. If the association does not have a photocopy
1531 machine available where the records are kept, or if the records
1532 requested to be copied exceed 25 pages in length, the
1533 association may have copies made by an outside duplicating
1534 service and may charge the actual cost of copying, as supported
1535 by the vendor invoice. The association shall maintain an
1536 adequate number of copies of the recorded governing documents,
1537 to ensure their availability to members and prospective members.
1538 Notwithstanding this paragraph, the following records are not
1539 accessible to members or home owners:
1540 1. A record protected by the lawyer-client privilege as
1541 described in s. 90.502 and a record protected by the work-
1542 product privilege, including, but not limited to, a record
1543 prepared by an association attorney or prepared at the
1544 attorney's express direction which reflects a mental impression,
1545 conclusion, litigation strategy, or legal theory of the attorney
1546 or the association and which was prepared exclusively for civil
1547 or criminal litigation, for adversarial administrative
1548 proceedings, or in anticipation of such litigation or
1549 proceedings until the conclusion of the litigation or
1550 proceedings.

1551 2. E-mail addresses, telephone numbers, facsimile numbers,
1552 emergency contact information, any addresses for a home owner
1553 other than as provided for association notice requirements, and
1554 other personal identifying information of any person, excluding
1555 the person's name, lot designation, mailing address, and
1556 property address. Notwithstanding the restrictions in this
1557 subparagraph, an association may print and distribute to home
1558 owners a directory containing the name, park address, and
1559 telephone number of each home owner. However, a home owner may
1560 exclude his or her telephone number from the directory by so
1561 requesting in writing to the association. The association is not
1562 liable for the disclosure of information that is protected under
1563 this subparagraph if the information is included in an official
1564 record of the association and is voluntarily provided by a home
1565 owner and not requested by the association.
1566 3. An electronic security measure that is used by the
1567 association to safeguard data, including passwords.
1568 4. The software and operating system used by the
1569 association which allows the manipulation of data, even if the
1570 home owner owns a copy of the same software used by the
1571 association. The data is part of the official records of the
1572 association.
1573 Section 29. Section 723.1255, Florida Statutes, is amended
1574 to read:
1575 723.1255 Alternative resolution of recall, election, and

1576 inspection and photocopying of official records disputes.—
1577 (1) A dispute between a mobile home owner and a
1578 homeowners' association regarding the election and recall of
1579 officers or directors under s. 723.078(2)(b) or regarding the
1580 inspection and photocopying of official records under s.
1581 723.079(5) must be submitted to mandatory binding arbitration
1582 with the division. The arbitration shall be conducted in
1583 accordance with this section and the procedural rules adopted by
1584 the division.
1585 (2) Each party shall be responsible for paying its own
1586 attorney fees, expert and investigator fees, and associated
1587 costs. The cost of the arbitrators shall be divided equally
1588 between the parties regardless of the outcome.
1589 (3) The division shall adopt procedural rules to govern
1590 mandatory binding arbitration proceedings ~~The Division of~~
1591 ~~Florida Condominiums, Timeshares, and Mobile Homes of the~~
1592 ~~Department of Business and Professional Regulation shall adopt~~
1593 ~~rules of procedure to govern binding recall arbitration~~
1594 ~~proceedings~~.
1595 Section 30. For the purpose of incorporating the amendment
1596 made by this act to section 420.5087, Florida Statutes, in a
1597 reference thereto, paragraph (i) of subsection (22) of section
1598 420.507, Florida Statutes, is reenacted to read:
1599 420.507 Powers of the corporation.—The corporation shall
1600 have all the powers necessary or convenient to carry out and

1601 effectuate the purposes and provisions of this part, including
1602 the following powers which are in addition to all other powers
1603 granted by other provisions of this part:
1604 (22) To develop and administer the State Apartment
1605 Incentive Loan Program. In developing and administering that
1606 program, the corporation may:
1607 (i) Establish, by rule, the procedure for competitively
1608 evaluating and selecting all applications for funding based on
1609 the criteria set forth in s. 420.5087(6)(c), determining actual
1610 loan amounts, making and servicing loans, and exercising the
1611 powers authorized in this subsection.
1612 Section 31. For the purpose of incorporating the amendment
1613 made by this act to section 420.5095, Florida Statutes, in a
1614 reference thereto, subsection (2) of section 193.018, Florida
1615 Statutes, is reenacted to read:
1616 193.018 Land owned by a community land trust used to
1617 provide affordable housing; assessment; structural improvements,
1618 condominium parcels, and cooperative parcels.—
1619 (2) A community land trust may convey structural
1620 improvements, condominium parcels, or cooperative parcels, that
1621 are located on specific parcels of land that are identified by a
1622 legal description contained in and subject to a ground lease
1623 having a term of at least 99 years, for the purpose of providing
1624 affordable housing to natural persons or families who meet the
1625 extremely-low-income, very-low-income, low-income, or moderate-

1626 income limits specified in s. 420.0004, or the income limits for
1627 workforce housing, as defined in s. 420.5095(3). A community
1628 land trust shall retain a preemptive option to purchase any
1629 structural improvements, condominium parcels, or cooperative
1630 parcels on the land at a price determined by a formula specified
1631 in the ground lease which is designed to ensure that the
1632 structural improvements, condominium parcels, or cooperative
1633 parcels remain affordable.
1634 Section 32. This act shall take effect July 1, 2020.

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Yarborough offered the following:
3
4 **Amendment (with title amendment)**
5 Remove lines 231-248
6
7 ----------
8 **T I T L E A M E N D M E N T**
9 Remove lines 18-19 and insert:
10 s. 320.77, F.S.; revising a

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Yarborough offered the following:
3
4 **Amendment (with title amendment)**
5 Remove lines 1182-1192 and insert:
6 f. The division shall adopt procedural rules to govern
7
8 ----------
9 **T I T L E A M E N D M E N T**
10 Remove lines 126-129 and insert:
11 under certain circumstances;

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Yarborough offered the following:
3
4 **Amendment**
5 Remove lines 357-392 and insert:
6 program. The review committee must use evaluation criteria that
7 includes, ~~including,~~ but is not limited to, the following
8 criteria:
9 1. Tenant income and demographic targeting objectives of
10 the corporation.
11 2. Targeting objectives of the corporation which will
12 ensure an equitable distribution of loans between rural and
13 urban areas.
14 3. Sponsor's agreement to reserve the units for persons or
15 families who have incomes below 50 percent of the state or local
16 median income, whichever is higher, for a time period that

17 exceeds the minimum required by federal law or this part.
18 4. Sponsor's agreement to reserve more than:
19 a. Twenty percent of the units in the project for persons
20 or families who have incomes that do not exceed 50 percent of
21 the state or local median income, whichever is higher; or
22 b. Forty percent of the units in the project for persons
23 or families who have incomes that do not exceed 60 percent of
24 the state or local median income, whichever is higher, without
25 requiring a greater amount of the loans as provided in this
26 section.
27 5. Provision for tenant counseling.
28 6. Sponsor's agreement to accept rental assistance
29 certificates or vouchers as payment for rent.
30 7. Projects requiring the least amount of a state
31 apartment incentive loan compared to overall project cost,
32 except that the share of the loan attributable to units serving
33 extremely-low-income persons must be excluded from this
34 requirement.
35 8. Local government contributions and local government
36 comprehensive planning and activities that promote affordable
37 housing <u>and policies that promote access to public</u>
38 <u>transportation, reduce the need for onsite parking, and expedite</u>
39 <u>permits for affordable housing projects</u>.
40 9. Project feasibility.
41 10. Economic viability of the project.

42 11. Commitment of first mortgage financing.
43 12. Sponsor's prior experience. The criterion may not
44 require a sponsor to have prior experience with the corporation
45 in order to qualify for financing under the program.

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Ways & Means Committee
2 Representative Yarborough offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Between lines 676 and 677, insert:
6 (4) Each local housing assistance plan is governed by the
7 following criteria and administrative procedures:
8 (a) Each county, eligible municipality, or entity formed
9 through interlocal agreement to participate in the State Housing
10 Initiatives Partnership Program must develop a qualification
11 system and selection criteria for applications for awards by
12 eligible sponsors, adopt criteria for the selection of eligible
13 persons, and adopt a maximum award schedule or system of amounts
14 consistent with the intent and budget of its local housing
15 assistance plan, with ss. 420.907-420.9079, and with corporation
16 rule. The selection criteria must provide priority to applicants

17 who need less assistance so as to maximize the total number of
18 applicants that may receive an award under the program.
19
20 ----------
21 D I R E C T O R Y A M E N D M E N T
22 Remove line 674 and insert:
23 Section 15. Paragraph (a) of subsection (4) is amended and
24 paragraph (j) is added to subsection (10) of
25
26 ----------
27 T I T L E A M E N D M E N T
28 Remove line 72 and insert:
29 funds; amending s. 420.9075, F.S.; providing for an optimization
30 plan to be included in local housing assistance plan criteria;
31 revising