

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce Committee

BILL: SB 1976

INTRODUCER: Senator Altman

SUBJECT: Department of Revenue

DATE: March 3, 2010

REVISED: 03/03/10

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hrdlicka	Cooper	CM	Fav/1 amendment
2.		BI	
3.		FT	
4.		GA	
5.		WPSC	
6.			

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input checked="" type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill includes several statutory changes that will reduce the burden on taxpayers, reduce Department of Revenue costs and increase efficiency, improve tax administration, and improve enforcement of tax laws. The improved enforcement and tax administration provisions of this bill are expected to have a positive but indeterminate impact on state revenue.

This bill substantially amends the following sections of the Florida Statutes: 55.204, 95.091, 201.02, 202.125, 212.05, 212.0515, 212.08, 213.053, 213.25, 213.50, 213.67, 220.192, 336.021, 443.036, 443.1215, 443.1316, 443.141, and 443.163.

The bill creates the following sections of the Florida Statutes: 213.0532, 213.758, and 213.692.

The bill repeals ss. 195.095, and 213.054 of the Florida Statutes.

II. Present Situation:

The Department of Revenue (department) is charged with ensuring that the taxes it administers are carried out in a fair and equitable manner. Each year the Executive Director seeks approval

of proposed legislative concepts by the Governor and Cabinet, in their role as the head of the department. The department's tax administration concepts are proposed to reduce the burden on taxpayers and to ensure that Florida's tax laws are applied in a consistent, cost-effective, and equitable manner.

(See section-by-section analysis below.)

III. Effect of Proposed Changes:

This bill includes several statutory changes proposed by the department that will reduce the burden on taxpayers, reduce its costs and increase efficiency, improve tax administration, and improve enforcement of tax laws. These statutory changes are based on legislative concepts approved by the Governor and Cabinet, who serve as the head of the department.

Section-by-section analysis:

Section 1

Present Situation: Currently, s. 55.204(2), F.S., provides that liens securing the payment of child support or tax obligations as provided in s. 95.091(1)(b), F.S., lapse 20 years after the date of the original filing of the warrant or other document required to establish the lien.

Proposed Change: Section 1 of the bill amends s. 55.204, F.S., to conform to changes made in section 20 of the bill, by providing that liens securing the payment of unemployment tax obligations lapse 10 years after the date of the original filing of notice of lien. This mirrors federal unemployment compensation tax liens.

Section 2

Present Situation: Currently, s. 95.091(1)(a), F.S., provides that except in certain enumerated situations, tax liens expire 5 years after the later of the date the tax was assessed or the date the tax became delinquent.

Proposed Change: Section 2 amends s. 95.091, F.S., to include the changes made in section 20 of the bill to provide that the duration of liens securing the payment of unemployment taxes is 10 years. This mirrors federal unemployment compensation tax liens.

Section 3

Present Situation: Section 201.02, F.S., imposes the documentary stamp tax on the deeds and other instruments that convey real property. The tax is imposed on the "consideration" given for the deed or instrument, and "consideration" includes money paid and mortgages on the property, as well as any cancellation of indebtedness given in return for the deed.

The question has arisen as to whether this tax applies to the portion of a seller's debt that is cancelled by a lender as part of a short sale, or a sale where the purchaser is paying less than the owner owes the lender. The department has issued administrative advisements that conclude that the cancelled debt is not part of the consideration, to the extent that the transaction is occurring at arm's length. These advisements are binding only for the taxpayers who specifically request them.

Proposed Change: Section 3 amends s. 201.02, F.S., to state clearly that the portion of a seller's debt cancelled or forgiven by a lender pursuant to a short sale is not subject to the documentary stamp tax. The bill provides a definition of a "short sale" for purposes of the subsection. Section 3 is effective July 1, 2010.

Section 4

Present Situation: Chapter 202, F.S., contains an exemption for the state portion of communication services tax (6.8 percent) on certain communications services sold to residential households (such as local phone service). The exemption does not apply to any residence that is a "public lodging establishment" under ch. 509, F.S. It appears that the legislative intent behind this exemption was to allow persons to enjoy the exemption for certain communications services purchased at their residence, and the department has administered the law in this manner. However, ch. 2008-240, L.O.F., changed the definition of "public lodging establishment" under ch. 509, F.S., and created separate designations for "transient" and "nontransient" public lodging establishments. This change has created some uncertainty for the exemption on sales of communications services made to persons living in "nontransient" public lodging establishments such as apartment complexes, etc.

Proposed Change: Section 4 amends s. 202.125, F.S., to clarify that the legislative intent is to continue this partial exemption from communications services tax on sales made to residential households in facilities such as apartment complexes.

Section 5

Present Situation: In ch. 2009-51, L.O.F., several references to the old Standard Industrial Classification (SIC) were replaced with the current North American Industrial Classification System (NAICS). Further changes are needed to reconcile the systems and maintain the status quo ante. Currently, s. 212.05(1)(i)1.b., F.S., imposes a tax on nonresidential cleaning and nonresidential pest control services listed under NAICS National Numbers 561710 and 561720. NAICS number 561720 includes "cleaning interiors of transportation equipment," for example aircraft, rail cars, and ships; this is a service that was not listed or taxed prior to the 2009 law change.

Proposed Change: The proposed language amends s. 212.05, F.S., to be consistent with the appropriate NAICS categories. It excludes the cleaning of interiors of transportation equipment from the tax imposed on cleaning services.

Section 6

Present Situation: Vending machine operators are required by s. 212.0515, F.S., to place a notice on each vending machine that states the operator's name, address, and Federal Employer Identification Number or sales tax registration number. There have been instances of inmates in correctional facilities filing fraudulent tax returns with the IRS using the information on the vending machines, creating problems for the machine operators.

Proposed Change: Section 6 removes personal information about the machine operator from the required notice.

Section 7

Present Situation: Section 212.08, F.S., provides that certain products are exempt from sales and used tax. Subsection (1) exempts certain food products for human consumption, but difficulties have arisen when taxable items and nontaxable (food) items are sold together for a single price. The department provided an exemption from taxation in Administrative Rule 12A-1.011, F.A.C., for a packaged item containing nontaxable food and taxable items if the value of the taxable item(s) was not more than 25 percent of the total value. However, it recently became clear that no statutory authority exists for this rule (November 2009).

Section 212.08(5), F.S., exempts building materials from sales and use tax by refund if the materials are used to rehabilitate real property located in an enterprise zone. This program has grown significantly, creating administrative difficulties. First, when the real property is being developed and later sold, it is unclear whether the developer or the ultimate property owner is entitled to the exemption. Second, many applications must be submitted for a single development if the rehabilitation involves breaking a single parcel into several new parcels, each of which qualifies for an exemption. Finally, the statute requires that building permits be submitted in order to claim the refund, but some projects may not require building permits.

Proposed Change: Section 7 amends s. 212.08(1), F.S., to include provisions specifying that, for a single package containing both nontaxable food items and taxable items, if the taxable items represent 25 percent or less of the value, the package is exempt. The person preparing the package is liable for the tax on the cost of the taxable items in the package.

Subsection (5) is amended to clarify that the property owner at the time the property is rehabilitated is entitled to the exemption, that only one application is required to request exemptions for multiple properties within a development that were parts of a single parcel, and that any permit issued by a local government building department will satisfy the permit requirement.

Section 7 also clarifies that if a general contractor is not used, the applicant must make the required sworn statement listing the building materials used, the actual cost of the materials, and the amount of sales tax paid. Further the bill provides that the application for refund can be filed with the department by November 1 after the rehabilitated property is first subject to assessment (current law requires the application to be filed by September 1).

Sections 8 and 15

Present Situation: In 2008, the Legislature transferred certain duties of the Department of Environmental Protection to the newly created Florida Energy and Climate Commission for the Renewable Energy Technologies Investment Tax Credit (s. 220.192, F.S.), but certain responsibilities for this credit were not transferred. Additionally, references regarding the disclosure of confidential information by the department also need to be updated and changed to the Florida Energy and Climate Commission for purposes of the Renewable Energy Technologies Investment Tax Credit and an exemption from the sales and use tax for equipment, machinery, and other materials for renewable energy technologies (s. 212.08(7)(ccc), F.S.).

Proposed Change: The bill updates ss. 213.053 and 220.192, F.S., to reflect current roles and responsibilities, and applies retroactively to July 1, 2008.

Section 9

This section amends several parts of s. 213.053, F.S., effective July 1, 2010.

Present Situation: Current law does not specifically authorize the department to send general information to taxpayers through regular electronic systems. General information includes items such as Taxpayer Information Publications, due date reminders, or other general notices.

Proposed Change: This bill clearly authorizes the department to send general information to taxpayers using regular electronic systems (s. 213.053(5)(b), F.S.). The information could be sent by telephone, electronic mail, facsimile, or similar electronic means. Services could be expanded through ongoing development of the department's internet e-portal site. This change would enhance and improve communication with taxpayers.

Present Situation: The department is not permitted to disclose taxpayer information, unless specifically allowed by law. The department is currently permitted to disclose names, addresses and sales tax registration information to the Division of Hotels and Restaurants within the Department of Business and Professional Regulation, but may not disclose other sales and use tax information to the division. The Division of Hotels and Restaurants does not have authority to take action against a licensee for violation of sales and use tax laws.

Proposed Change: The bill allows the department to share and provide information regarding outstanding sales and use tax warrants, notices of liens, or judgment lien certificates with the Division of Hotels & Restaurants (s. 212.053(8)(d), F.S.). Section 12 of the bill permits the Department of Business and Professional Regulation to take action against hotel or restaurant licensees that have outstanding tax warrants.

Present Situation: The 2007 Legislature directed the department to conduct a pilot program to match electronic data from financial institutions with public records to recover delinquent tax liabilities. The department conducted the pilot program with a financial institution and identified accounts for 5 percent of the 39,000 delinquent taxpayers submitted for the match. However, the department was not allowed to take action against taxpayer accounts during the pilot program.

Proposed Change: The bill allows the department to provide taxpayer names and identification numbers for the purposes of information-sharing agreements with financial institutions (s. 212.053(8)(z), F.S.). The information-sharing agreements are authorized in section 10 of the bill.

Present Situation: The Department of Environmental Protection administers sovereign submerged land leases and associated fees in Florida. The department is not currently permitted to disclose information regarding sales and tax information on submerged lands leaseholders to the Department of Environmental Protection.

Proposed Change: The bill allows the department to share information regarding sales and use information with the Department of Environmental Protection for use in the administration of submerged land leases and associated fees (s. 212.053(8)(aa), F.S.).

Present Situation: Due to restrictions regarding confidential taxpayer information, the department is not permitted to publish the names of taxpayers on whom the department has filed

tax warrants, notices of liens, or judgment lien certificates. However, this information can currently be found in the public records in county courthouses and on the Department of State's website where judgment lien certificates are in a searchable database.

Proposed Change: The bill provides tax information to the public by permitting publication on the department's Internet website the name, amount of liability, and other publicly available information of taxpayers against whom the department has filed tax warrants, notice of liens, or judgment lien certificates. The information would be provided in list format and would be updated no less than monthly. The department will work with state and federal partners to assure that any confidentiality restrictions are not violated by such publication. The department is authorized to adopt rules to administer this provision (s. 212.053(19), F.S.).

Present Situation: Information related to tax warrants, notice of liens, and judgment lien certificates can currently be found in the public records in county courthouses and on the Department of State's website. However, due to restrictions regarding confidential taxpayer information, the department is not permitted to disclose information related to taxpayers on whom the department has filed tax warrants, notices of liens, or judgment lien certificates.

Proposed Change: The bill authorizes the department to disclose information relating to taxpayers against whom the department has filed tax warrants, notice of liens, or judgment lien certificates. Information permitted to be disclosed includes the name and address of the taxpayer, the actions taken, the amounts and types of liabilities, and the amount of any collection made (s. 212.053(20), F.S.).

Present Situation: Florida's corporate income tax permits a deduction for international banking facilities. Since 1981, the department has been required to report the names and addresses of banks that take the deduction. However, the report was not regularly submitted until recently. Currently, this report is kept confidential by both the department and the Chief Financial Officer as it contains taxpayer information that may not be disclosed to other parties. All affected agencies concur that the report is unnecessary.

Proposed Change: The bill repeals this annual report (section 26), and section 9 amends s. 213.053(5)(b), F.S., to delete the provision that allows the department to share information regarding taxpayers who have claimed a deduction with the Chief Financial Officer.

Section 10

Present Situation: The 2007 Legislature directed the department to conduct a pilot program to match electronic data from financial institutions with public records to recover delinquent tax liabilities. The department conducted the pilot program with a financial institution and identified accounts for 5 percent of the 39,000 delinquent taxpayers submitted for the match. However, the department was not allowed to take action against taxpayer accounts during the pilot program.

Proposed Change: Section 10 creates s. 213.0532, F.S., which makes the information-sharing program permanent and allows the department to take action to collect these outstanding tax liabilities. The department is authorized to enter into agreements with financial institutions to develop and operate a data match system in which the financial institution provides specified information on persons who maintain accounts at the financial institution to the extent allowable

by law. The department will pay a reasonable fee, not to exceed actual costs incurred, to financial institutions for conducting the data match. The bill provides that a financial institution is not required to provide notice to its customers and is not liable for complying with the statute. The department is authorized to adopt rules to administer the section. Section 10 is effective July 1, 2010.

Section 11

Present Situation: Section 213.25, F. S., permits the department to reduce a taxpayer's refund or credit by the amount of other taxes that the taxpayer owes. In 2007, this offset authority was added to ch. 443, F.S., the unemployment compensation chapter. The Agency for Workforce Innovation, which administers Florida's unemployment compensation program, has requested that ch. 443, F.S., be specifically cited in s. 213.25, F.S.

Proposed Change: Section 11 clarifies that the department's authority to reduce a taxpayer's refunds or credits by the amount of any other taxes owed applies to unemployment compensation tax due and not subject to protest under ch. 443, F.S. This section is effective July 1, 2010.

Section 12

Present Situation: The Department of Business and Professional Regulation may revoke the corporate charter of a corporation that has an outstanding tax warrant that has existed for more than 3 consecutive months, but it does not have authority to take action against a hotel or restaurant licensee for violation of sales and use tax laws.

Proposed Change: Section 12 amends s. 213.50, F.S., to provide that the Department of Business and Professional Regulation may revoke or deny an application to renew a hotel or restaurant license if the licensee has had an outstanding sales and use tax warrant for more than 3 consecutive months. Section 12 is effective July 1, 2010.

Section 13

Present Situation: The department is required to send a notice by registered mail to financial institutions or other entities that may possess assets of a delinquent taxpayer that notifies the entity that the assets are to be garnished.

Proposed Change: Section 213.67, F.S., is amended to allow the department to notify these institutions by personal service, or by electronic means, including, but not limited to, facsimile transmissions, electronic data interchange, or use of the Internet. Section 13 is effective July 1, 2010.

Section 14

Present Situation: Currently, Florida does not have a comprehensive statute for the transfer of tax liabilities when a business or business assets are sold or transferred. Rather, each tax either contains a narrow provision or no specific provision. Moreover, the current provisions do not apply to situations where business assets are transferred, rather than purchased. Finally, current provisions do not specify the new owner's liability when the purchaser or transferee does not acquire equity in the business.

Proposed Change: The bill creates s. 213.758, F.S., a comprehensive statute governing the transfer of a business's tax liability to future owners of the business or business assets.

A taxpayer who quits a business without selling, assigning, or transferring the business must make a final return and full payment for any taxes due, excluding corporate income tax, within 15 days of quitting the business. Such taxpayer that fails to file the final return and make payment is prohibited from engaging in any business until the return is filed and all taxes, interest, and penalties have been paid. The department may request the Department of Legal Affairs to seek an injunction to prevent further business activity.

A taxpayer who transfers a business must make a final return and full payment for any taxes due, excluding corporate income tax, within 15 days of the date of transfer. The bill clarifies that new owners may be liable even if the business or business assets were transferred to the new owner but were not purchased. The transferee of more than 50 percent of a business is also liable for the taxes due by the transferor, unless the transferor provides the transferee a receipt or certificate from the department showing that the transferor is not liable for taxes and the department conducts an audit and finds that the transferor is not liable for taxes. The transferee may withhold a portion of the consideration to pay the taxes to pay to the department within 30 days of the date of transfer. The transferee that fails to pay taxes due is prohibited from engaging in any business until the all taxes, interest, and penalties have been paid. The department may request the Department of Legal Affairs to seek an injunction to prevent further business activity.

A transferee becomes liable for outstanding taxes only for voluntary transfers. The transferee is liable only for the fair market value or the purchase price of the property transferred, whichever is higher. The department is authorized to adopt rules to administer the section.

Section 16

Present Situation: Under s. 336.021, F.S., the ninth-cent and local option fuel tax are distributed to counties in three "tiers." The second tier is a "special" distribution currently made to Gadsden and Walton Counties because they have met certain statutory requirements. The law generally requires the distributions to be in order. However, due to the increased volume of fuel being sold in Florida, the department has the ability to make "tier three" distributions before the data is received to make the "tier two" distribution.

Proposed Change: Section 16 amends s. 336.021, F.S., to adjust the tier distribution system to more accurately reflect current fuel market conditions and allow the "tier three" distributions to local governments to occur before the "tier two" distribution. There would be no impact to the "tier two" counties with this proposal. Section 16 is effective July 1, 2010.

Section 17

Present Situation: For state unemployment tax purposes, limited liability companies (LLC) are treated as they are classified for federal income tax purposes. A single member LLC may designate either the LLC or the owner as the employer. New Internal Revenue Service regulations change how single member LLCs report for federal employment tax purposes and require the LLC to be treated as the employer.

Proposed Change: Section 17 amends s. 443.036, F.S., to specify that a single member LLC shall be treated as the employer for state unemployment tax purposes, consistent with IRS regulations.

Section 18

Present Situation: When ch. 443, F.S., was rewritten in 2002, a reference dealing with agricultural employers was incorrectly cited. Section 443.1215(2)(b), F.S., refers to “subsection (1)” when the correct reference should be “paragraph (1)(a).” The current reference allows an agricultural employer to be automatically considered a domestic employer when they have not met the necessary criteria.

Proposed Change: Section 18 amends s. 443.1215, F.S., to correct the citation.

Section 19

Present Situation: The department administers the unemployment compensation tax under contract with the Agency for Workforce Innovation through an interagency agreement.

Proposed Change: Section 19 updates cross-references in s. 443.1316(2), F.S., to statutes governing the department to provide that the statutes also apply to collection of unemployment contributions. The cross-references are added to conform to new statutes created by the bill (s. 213.0532, F.S., related to information-sharing agreements with financial institutions – section 10 of the bill; s. 213.692, F.S., related to integrated enforcement authority – section 23 of the bill; and s. 213.758, F.S., related to transfer of tax liabilities – section 14 of the bill).

Section 20

Present Situation: Employers are required to pay unemployment compensation tax and file quarterly wage reports. If these reports are not correct and complete, payment of unemployment benefits to unemployed workers may be delayed, as well as the completion of certain federal administration requirements. Further, incorrect and incomplete reports impair the efforts of numerous agencies, such as the U.S. Department of Homeland Security, Immigration and Customs Enforcement, the Social Security Administration, and Florida’s child support enforcement program, that use information in the database to conduct their respective duties. The department frequently receives erroneous, incorrect or insufficient reports and efforts to enforce the reporting requirements have been unsuccessful. There is currently no penalty for filing erroneous, incomplete, or insufficient tax and wage reports.

Florida does not specifically identify the statute of limitations period for unemployment tax liens. Historically, the state has asserted that the lien is valid for 10 years, but taxpayers have recently challenged that position. These taxpayers have argued that the lien is only effective for 5 years. Enforcement of these liens often occurs when the property is sold, and thus, 5 years is not sufficient time to ensure proper enforcement.

Proposed Change: Section 20 amends s. 443.141, F.S., to impose a penalty of \$50 or 10 percent of the tax due, not to exceed \$300, for erroneous, incomplete, or insufficient tax/wage reports (the term “erroneous, incomplete, or insufficient report” is defined for purposes of the subsection). The department would waive the penalty if an accurate and complete report is filed within 30 days of the penalty notice. An automatic penalty waiver would be permitted once

during a 12 month period or, as with other penalties imposed under ch. 443, F.S., waived if imposition is inequitable. Employers would not be penalized for erroneous information supplied by employees if the employer was not aware of the inaccuracy. It also clarifies that unemployment tax liens are in effect for 10 years, which mirrors federal unemployment tax liens and provides additional time for collection activities.

Section 21

Present Situation: Section 443.163(2), F.S., requires certain employers and preparers to file quarterly wage reports electronically, and allows a minimal penalty of \$10 to be assessed for noncompliance. This has not proven to be a deterrent to noncompliance, and critical wage information is unavailable for administering the unemployment program unless the department uses its limited resources to manually key in the returns and wage information. Manual entry of such information can delay the processing of unemployment compensation benefits to unemployed workers. Under current law employers may obtain a waiver from the electronic filing requirement if they are unable to comply despite good faith efforts.

Proposed Change: This bill increases the penalty to \$50 per report and \$1 per employee when the required data is not submitted in the approved electronic manner. Section 21 is effective July 1, 2010.

Section 22

Section 443.163(3), F.S., contains a reference to telefile but telefile no longer exists for unemployment tax.

Proposed Change: This bill deletes the obsolete terminology.

Section 23

Present Situation: There is no integrated law for the enforcement of each tax, fee, or surcharge administered by the department. Florida law permits the department to revoke a dealer's sales tax registration when the dealer fails to pay its sales tax liability. However, the department does not have the authority to revoke sales tax registrations of taxpayers delinquent in other taxes.

Proposed Change: Effective July 1, 2010, section 23 creates s. 213.692, F.S., to allow the department to revoke a taxpayer's certificate(s) of registration, permit, or license for any tax when the taxpayer owes any tax liability and a tax warrant, notice of lien, or judgment lien certificate has been issued. Before revocation, the department must schedule an information conference with the taxpayer to allow the taxpayer to present evidence regarding the department's intended revocation action, or enter into a compliance agreement to pay the outstanding taxes. If the taxpayer fails to attend the informal conference, fails to enter into a compliance agreement, or fails to comply with an executed compliance agreement, then the department is required to issue an administrative compliance under ch. 120, F.S.

A taxpayer whose registration, permit, or license has been revoked may not be issued a new one unless either the outstanding tax liabilities have been satisfied or the department enters into a written agreement with the taxpayer regarding the liability and the department agrees to issue a new registration, permit, or license as part of the agreement. A condition to obtain a new certification of registration will be to require a cash deposit, bond, or other security pursuant to

the requirements of s. 212.14(4), F.S. The department is authorized to adopt rules to administer the section.

Section 24 authorizes the department to adopt emergency rules to administer s. 213.692, F.S. This section is effective July 1, 2010.

Section 25

Present Situation: Section 195.095, F.S., requires the department to maintain an Approved State Bidder List that contains a list of approved vendors for property assessment services or assessment related technologies. County officials are required to use this list. The department is also required to promulgate a standard contract that contains the minimum requirements for all contracts. The requirement to provide this list and contract were created in the 1970s prior to counties purchasing computer assisted mass appraisal systems when some counties lacked the expertise in this area. Currently there are approximately 110 vendors on the list.

Proposed Change: Section 25 repeals s. 195.095, F.S. Counties have developed the expertise to engage property assessment services or assessment related technologies without assistance from the department.

Section 26

Present Situation: Florida's corporate income tax permits a deduction for international banking facilities. Since 1981, the department has been required to report the names and addresses of banks that take the deduction. However, the report was not regularly submitted until recently. Currently, this report is kept confidential by both the department and the Chief Financial Officer as it contains taxpayer information that may not be disclosed to other parties. All affected agencies concur that the report is unnecessary.

Proposed Change: Section 26 repeals s. 213.054, F.S., which requires this annual report.

Section 27 provides that except as otherwise provided, the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

This bill has not been analyzed by the Revenue Estimating Conference, but the improved enforcement and tax administration provisions of this bill are expected to have a positive but indeterminate impact on state revenue and the Unemployment Compensation Trust Fund.

B. Private Sector Impact:

This bill reduces taxpayer burdens by:

- Clarifying that the portion of a seller's debt cancelled by a lender pursuant to a short sale is not subject to the documentary stamp tax;
- Clarifying that the residential exemption for communications services made to residential households in apartment complexes;
- Removing personal information about the vending machine operator from the required notice;
- Codifying the department's treatment of bundled food and non-food items for sales tax purposes;
- Clarifying issues regarding tax liability for transfers or business;
- Correcting an erroneous statutory citation for agricultural employers;
- Allowing the department to provide general information to taxpayers by email; and
- Allowing a single application for enterprise zone sales tax refunds for multi-unit developments and clarifying other aspects of the application process.

C. Government Sector Impact:

This bill improves tax administration and enforcement by:

- Repealing an obsolete report on international banking facilities;
- Correcting the timing of the distribution of the tax on diesel;
- Correcting an erroneous citation for renewable energy investment tax credits;
- Clarifying the statute of limitations on unemployment compensation tax liens;
- Including unemployment taxes among those taxes for which an overpayment or credit due may be used to offset taxes owed by the same taxpayer;
- Making permanent a pilot program for matching financial information data with financial institutions to recover delinquent tax liabilities;
- Codifying the transfer of tax liabilities when businesses or business assets are transferred;
- Allowing the department to revoke a taxpayers certificates of registration for any tax when the taxpayer owes any tax liability for which a tax warrant has been issued;
- Allowing the department to notify financial institutions by personal service or electronic means if a taxpayer's assets with that institution are going to be garnished;

- Allowing the department to publish information that is already publicly available about taxpayers against whom a tax lien has been recorded;
- Allowing the department to share information about outstanding sales and use tax warrants with the Division of Hotels and Restaurants, and providing that the division shall not renew licenses if the licensee has an outstanding warrant for more than 3 consecutive months;
- Increasing the penalty for erroneous or incomplete unemployment compensation tax reports; allowing for an automatic waiver under certain conditions;
- Increasing the penalty for failure to comply with filing requirements for quarterly reports related to the unemployment compensation tax; and
- Conforming treatment of single member LLCs to federal practices.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

Barcode 342988 by Commerce Committee on March 3, 2010:

The amendment simplifies the definition of the parties' relationship in a short sale, and removes from the proposed provision rule making authority that is no longer necessary to define that relationship. (WITH TITLE AMENDMENT)