



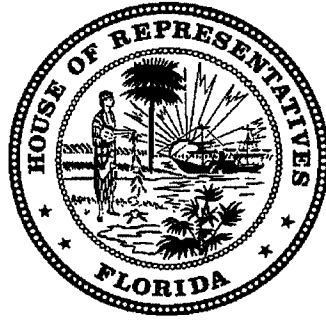
Finance and Tax Committee

Wednesday, February 1, 2012

1:00 p.m.

Morris Hall

MEETING PACKET



Finance and Tax Committee

AGENDA

February 1, 2012
1:00 p.m.
Morris Hall

I. Call to Order/Roll Call

II. Consideration of the following bill(s):

CS/HB 87 Tax on Severance and Production of Oil by Energy & Utilities Subcommittee, Hudson

HB 361 Exemptions from Local Business Taxes by Roberson, K.

HJR 1003 Tangible Personal Property Tax Exemptions by Eisnaugle

HB 1005 Tangible Personal Property Taxation by Eisnaugle

HB 1119 New Markets Development Program by Crisafulli

HJR 1289 Additional Homestead Exemption by Brodeur

HB 1291 Additional Homestead Exemption by Brodeur

HB 1491 Capital Formation for Infrastructure Projects by Eisnaugle

Consideration of the following proposed committee bill(s):

PCB FTC 12-01 -- Property Tax Oversight

PCB FTC 12-02 -- General Tax Administration

PCB FTC 12-03 -- Corporate Income Tax

PCB FTC 12-07 -- Economic Development


III. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 87 Tax on Severance and Production of Oil

SPONSOR(S): Energy & Utilities Subcommittee, Hudson

TIED BILLS: IDEN./SIM. BILLS: SB 1188

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|------------------------------------|------------------|---------|---|
| 1) Energy & Utilities Subcommittee | 10 Y, 4 N, As CS | Keating | Collins |
| 2) Finance & Tax Committee | | Flieger | BF Langston  |
| 3) State Affairs Committee | | | |

SUMMARY ANALYSIS

The bill amends s. 211.02(1), F.S., to define a new class of oil, "mature field recovery oil," and to apply the tiered tax rates for tertiary oil to the newly defined class.

The bill defines "mature field recovery oil" as "the barrels of oil recovered from new wells that begin production after July 1, 2012, in fields that were discovered prior to 1981." Sixteen of Florida's 22 oil fields were discovered prior to 1981, and seven of those fields are currently plugged and abandoned (five in Southwest Florida).

Unless recovered through tertiary methods, oil recovered from new wells in these "mature" fields is currently subject to a severance tax rate of 8%. The bill applies the tiered severance tax rates applicable to tertiary oil to the newly defined class of "mature field recovery oil" created by the bill. Thus, the bill applies the following severance tax rates to "mature field recovery oil" based on the value of the oil:

- 9% of the gross value of oil on the value of oil \$80 and above per barrel
- 7% of the gross value of oil on the value of oil above \$60 and below \$80 per barrel
- 1% of the gross value of oil on the value of oil \$60 and below per barrel

The Revenue Estimating Conference has evaluated this bill under an interpretation of "new well" that is narrower than is intended by the bill. Consequently, the estimated impacts need to be revised. Staff has estimated that this bill will have a negative cash impact to General Revenue of -\$0.8 million in FY 2012-13 (-\$2.9 million recurring). There will be a negative cash impact to state trust funds of -\$0.1 million in FY 2012-13 (-\$0.4 million recurring). There will be a negative cash impact of -\$0.1 million to local governments in FY 2012-13 (-\$0.2 million recurring).

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

According to the U.S. Department of Energy's ("U.S. DOE") website, crude oil development and production in U.S. oil reservoirs can include up to three distinct phases: primary, secondary, and tertiary (or enhanced) recovery. During primary recovery, only about 10 percent of a reservoir's original oil in place is typically produced. Secondary recovery techniques can result in the recovery of 20 to 40 percent of the original oil in place. With much of the easy-to-produce oil already recovered from U.S. oil fields, some producers have attempted tertiary, or enhanced oil recovery ("EOR"), techniques that may ultimately produce 30 to 60 percent or more of the reservoir's original oil in place but at relatively high cost.

According to the U.S. DOE website, three major categories of EOR have been found to be commercially successful to varying degrees:

- Thermal recovery, which involves the introduction of heat to lower the viscosity of heavy viscous oil and improve its ability to flow through the reservoir (accounting for over 40 percent of EOR production in the U.S.);
- Gas injection, which uses gases such as natural gas, nitrogen, or carbon dioxide that expand in a reservoir to push additional oil to a production wellbore, or other gases that dissolve in the oil to lower its viscosity and improves its flow rate (accounting for nearly 60 percent of EOR production in the U.S.); and
- Chemical injection, which can involve the use of long-chained molecules called polymers to increase the effectiveness of waterfloods, or the use of detergent-like surfactants to help lower the surface tension that often prevents oil droplets from moving through a reservoir (accounting for about one percent of EOR production in the U.S.).

Section 211.02(1), F.S., provides for an excise tax to be levied upon production of oil within Florida for sale, transport, storage, profit, or commercial use. The tax is measured by the value of the oil produced and saved or sold during a month. The current tax rate for small well oil¹ is 5 percent of the gross value. The tax rate for tertiary oil² varies based on the gross value of the oil and applies as follows: 1 percent of the gross value of oil on the value of oil \$60 dollars and below; 7 percent of the gross value of oil on the value of oil above \$60 and below \$80; and 9 percent of the gross value of oil on the value of oil \$80 and above. The tax rate for all other oil is 8 percent of the gross value.

The Florida Department of Environmental Protection ("DEP") oversees permitting for oil and gas drilling, production, and exploration within Florida. As of November 30, 2011, DEP's website identified seven active operators of oil and gas wells in Florida. These operators produce oil from fields in two areas in Florida: the upper-northwest Florida Panhandle and the eastern portions of several Southwest Florida counties. In 2010, the South Florida fields yielded 775,285 barrels of oil, and the Northwest Florida fields yielded 1,002,082 barrels of oil. The largest active field in Northwest Florida uses tertiary recovery methods.

¹"Small well oil" is defined in s. 211.01(21), F.S., as oil produced from a well from which less than 100 barrels of oil per day are severed, considering only those days of the month during which production of oil from the well actually occurred.

²"Tertiary oil" is defined in s. 211.02(3)(a), F.S., as the excess barrels of oil produced, or estimated to be produced, as a result of the actual use of a tertiary recovery method in a qualified enhanced oil recovery project, over the barrels of oil which could have been produced by continued maximum feasible production methods in use prior to the start of tertiary recovery. A "qualified enhanced oil recovery project" means a project for enhancing recovery of oil which meets the requirements of 26 U.S.C. s. 43(c)(2) or substantially similar requirements.

According to the DEP's 2010 Oil, Gas, and Water Production Data for the State of Florida³, there are 22 oil fields in Florida, eleven of which are plugged and abandoned. Sixteen of the 22 total oil fields in Florida were discovered prior to 1981, seven of which are currently plugged and abandoned. Two of the seven plugged and abandoned fields discovered prior to 1981 are located in Northwest Florida, and the remaining five are located in Southwest Florida. The plugged and abandoned fields in Florida produced a cumulative total of 17,459,000 barrels of oil while in operation. Some estimates indicate that as much as one-third of the recoverable oil remains in these fields. Based on the geology of a particular field, tertiary recovery methods may not be feasible, though other methods, such as horizontal drilling, may be used to recover this additional oil.

Effect of Proposed Changes

The bill amends s. 211.02(1), F.S., to define a new class of oil, "mature field recovery oil," and to apply the tiered tax rates for tertiary oil to the newly defined class.

The bill defines "mature field recovery oil" as "the barrels of oil recovered from new wells that begin production after July 1, 2012, in fields that were discovered prior to 1981." As noted above, sixteen of Florida's 22 oil fields were discovered prior to 1981, and seven of those fields are currently plugged and abandoned (five in Southwest Florida).

Unless recovered through tertiary methods, oil recovered from new wells in these "mature" fields is currently subject to a severance tax rate of 8%. The bill applies the tiered severance tax rates applicable to tertiary oil to the newly defined class of "mature field recovery oil" created by the bill. Thus, the bill applies the following severance tax rates to "mature field recovery oil" based on the value of the oil:

- 9% of the gross value of oil on the value of oil \$80 and above per barrel
- 7% of the gross value of oil on the value of oil above \$60 and below \$80 per barrel
- 1% of the gross value of oil on the value of oil \$60 and below per barrel

Production from new wells generally starts at higher levels and declines over time. For mature fields, particularly those that have been plugged and abandoned, most of the easy-to-produce oil has already been recovered. Based on the geology of a particular field, tertiary recovery methods may be feasible for extracting the remaining oil but are more costly than primary and secondary methods. Where tertiary recovery methods are not feasible, alternative methods such as horizontal drilling may allow a producer to extract the remaining oil. The bill appears to place these alternative recovery methods, which do not meet the strict definition of tertiary recovery methods, on the same tax footing as tertiary recovery methods.

Depending upon a producer's cost structure and the price of oil at a given time, this tiered tax structure might encourage new production from low producing or plugged and abandoned fields when production would not otherwise be economical at that time, might not impact production at all, or might allow for greater profitability from production at that time.

According to forecasts by the U.S. DOE's Energy Information Administration ("EIA"), the nominal price for crude oil, which reached a low of \$59.04 per barrel in 2009, will continue to rise for the foreseeable future. The EIA forecasts a price of \$99.05 per barrel in 2016 and \$124.05 per barrel in 2021, with continuing price increases thereafter. Based on the tiered severance tax rates, the effective tax rate for mature field recovery oil priced at \$80 per barrel would be 2.5 percent; at \$100 per barrel would be 3.8 percent; and at \$125 per barrel would be 4.84%. To the extent that these rates (which are lower than the 8 percent rate in current law) encourage production of oil from existing fields that otherwise would not be produced, the bill will generate revenues that otherwise would not have been generated. If oil prices rise to a level that would make such production attractive regardless of the applicable tax rate, the effect of the bill could be a negative impact on tax revenues.

³ http://www.dep.state.fl.us/water/mines/oil_gas/water_production.htm

B. SECTION DIRECTORY:

Section 1. Amends s. 211.02(1), F.S., relating to the excise tax on oil production.

Section 2. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has evaluated this bill under an interpretation of "new well" that is narrower than is intended by the bill. Consequently, the estimated impacts need to be revised. Staff has estimated that this bill will have a negative cash impact to General Revenue of -\$0.8 million in FY 2012-13 (-\$2.9 million recurring). There will be a negative cash impact to state trust funds of -\$0.1 million in FY 2012-13 (-\$0.4 million recurring).

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There will be a negative cash impact of -\$0.1 million to local governments in FY 2012-13 (-\$0.2 million recurring).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill reduces overall tax costs for producers of mature field recovery oil (i.e., oil produced after July 1, 2012, from new wells in fields that were discovered prior to 1981). To the extent that the bill stimulates production of such oil that would otherwise not be produced, it will likely result in royalty payments to mineral rights owners and creation of additional jobs.

D. FISCAL COMMENTS:

The excise tax collected on oil and gas production in Florida is placed in the Oil and Gas Tax Trust Fund. Pursuant to s. 211.06, F.S., the proceeds from oil severance taxes in this fund are credited as follows:

- General Revenue Fund of the state
 - 67.5% of proceeds from tax on small well oil and tertiary oil
 - 75.0% of proceeds from tax on all other oil production
- General Revenue Fund of the board of county commissioners in county where produced
 - 20.0% of proceeds from tax on small well oil and tertiary oil
 - 12.5% of proceeds from tax on all other oil production
- Minerals Trust Fund (DEP)
 - 12.5% of proceeds from tax on small well oil and tertiary oil
 - 12.5% of proceeds from tax on all other oil production

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 revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2011, the Energy & Utilities Subcommittee adopted a proposed committee substitute to HB 87. HB 87 provides exemptions from the tax on severance and production to certain wells that produce oil or gas on or after a certain date and limits the duration of those exemptions. The proposed committee substitute replaces the provisions of HB 87 in their entirety with provisions that define the term "mature field recovery oil" and apply to such oil the existing tiered severance tax rates applicable to tertiary oil under existing law.

CS/HB 87

2012

1 A bill to be entitled
 2 An act relating to the tax on severance and production
 3 of oil; amending s. 211.02, F.S.; defining the term
 4 "mature field recovery oil" and applying to such oil
 5 the tiered severance tax rates applicable to tertiary
 6 oil; providing an effective date.

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

9
 10 Section 1. Paragraph (b) of subsection (1) of section
 11 211.02, Florida Statutes, is amended, present subsections (4)
 12 and (5) of that section are renumbered as subsections (5) and
 13 (6), respectively, and a new subsection (4) is added to that
 14 section, to read:

15 211.02 Oil production tax; basis and rate of tax; tertiary
 16 oil and mature field recovery oil.—An excise tax is hereby
 17 levied upon every person who severs oil in the state for sale,
 18 transport, storage, profit, or commercial use. Except as
 19 otherwise provided in this part, the tax is levied on the basis
 20 of the entire production of oil in this state, including any
 21 royalty interest. Such tax shall accrue at the time the oil is
 22 severed and shall be a lien on production regardless of the
 23 place of sale, to whom sold, or by whom used, and regardless of
 24 the fact that delivery of the oil may be made outside the state.

25 (1) The amount of tax shall be measured by the value of
 26 the oil produced and saved or sold during a month. The value of
 27 oil shall be taxed at the following rates:

28 (b) Tertiary oil and mature field recovery oil:

CS/HB 87

2012

29 | 1. One percent of the gross value of oil on the value of
 30 | oil \$60 dollars and below;

31 | 2. Seven percent of the gross value of oil on the value of
 32 | oil above \$60 and below \$80; and

33 | 3. Nine percent of the gross value of oil on the value of
 34 | oil \$80 and above.

35 | (4) As used in this section, the term "mature field
 36 | recovery oil" means the barrels of oil recovered from new wells
 37 | that begin production after July 1, 2012, in fields that were
 38 | discovered prior to 1981.

39 | Section 2. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 87 (2012)

Amendment No. 1

19 2. ~~Sixty-threeseven~~ and one-half percent of the proceeds
20 from the tax on small well oil, ~~and~~ tertiary oil, and mature
21 field recovery oil imposed under s. 211.02(1)(a) and s.
22 211.02(1)(b).

23 3. Sixty-seven and one-half percent of the proceeds from
24 the tax on gas imposed under s. 211.025.

25 4. Sixty-seven and one-half percent of the proceeds of the
26 tax on sulfur imposed under s. 211.026.

27 (b) To the credit of the general revenue fund of the board
28 of county commissioners of the county where produced, subject to
29 the service charge imposed under chapter 215:

30 1. Twelve and one-half percent of the proceeds from the
31 tax on oil imposed under s. 211.02(1)(c).

32 2. Twenty percent of the proceeds from the tax on small
33 well oil, ~~and~~ tertiary oil, and mature field recovery oil
34 imposed under s. 211.02(1)(a) and s. 211.02(1)(b).

35 3. Twenty percent of the proceeds from the tax on gas
36 imposed under s. 211.025.

37 4. Twenty percent of the proceeds from the tax on sulfur
38 imposed under s. 211.026.

39 (c) To the credit of the Minerals Trust Fund:

40 1. Twelve and one-half percent of the proceeds from the
41 tax on oil imposed under s. 211.02(1)(c).

42 2. ~~Sixteen~~~~Twelve~~ and one-half percent of the proceeds from
43 the tax on oil, ~~and~~ tertiary oil, and mature field recovery oil
44 imposed under s. 211.02(1)(a) and s. 211.02(1)(b).

45 3. Twelve and one-half percent of the proceeds from the
46 tax on gas imposed under s. 211.025.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 87 (2012)

Amendment No. 1

47 | 4. Twelve and one-half percent of the proceeds from the
48 | tax on sulfur imposed under s. 211.026.

49 |

50 | Section 3. This act shall take effect July 1, 2012.

51 |

52 |

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54 | -----

55 |

T I T L E A M E N D M E N T

56 |

Remove line 6 and insert:

57 |

oil; amending s. 211.06, F.S.; revising distributions; providing
58 | an effective date


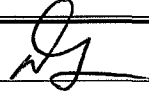
59 |

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 361 Exemptions from Local Business Taxes

SPONSOR(S): Roberson

TIED BILLS: IDEN./SIM. BILLS: SB 770

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|--------|---|--|
| 1) Finance & Tax Committee | | Flieger  | Langston  |
| 2) Business & Consumer Affairs Subcommittee | | | |
| 3) Economic Affairs Committee | | | |

SUMMARY ANALYSIS

HB 361 exempts any individual who is licensed and operating as a real estate sales or broker associate under ch. 475, F.S., from having to pay a local business tax or obtain a local business tax receipt. They are not required to apply for this exemption.

The Revenue Estimating Conference estimates that this bill will have a negative recurring impact to local governments of -\$3.8 million beginning in FY 2012-13. There is no state impact.

The effective date of this bill is July 1, 2012.

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:

Current Situation

Background

The local business tax, authorized in Chapter 205, F.S., represents the fees charged and the method by which a local government authority grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. Counties and municipalities may levy a business tax, and the tax proceeds are considered general revenue for the local government.¹ This tax does not refer to any regulatory fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection.²

Prior to 1972, the state imposed an occupational license tax and shared the revenues with the counties. Municipalities levied their own occupational license taxes pursuant to local ordinance or resolution. Counties had no authority to levy an occupational license tax until October 1, 1972, when Chapter 72-306, Laws of Florida, repealed the state tax and authorized both counties and cities to impose an occupational tax at the state or city rate then in effect. In 1980, the legislature authorized counties and municipalities to increase rates by a specified percentage based upon the rates then in effect.³ In 1986, the legislature authorized Miami-Dade, Broward, Monroe and Collier counties to increase their rates by an additional 50%, with the proceeds being dedicated to specified economic development activities.⁴

Effective January 1, 2007, the legislature changed the name of the Local Occupational License Tax to the Local Business Tax.⁵ This was done in response to some individuals representing that the fact that they had obtained an "occupational license" under Chapter 205, F.S., conferred upon them some type of official proof of their competency to perform various repairs and services. The name change was intended to clarify that the payments made under Chapter 205, F.S., were taxes and not some type of regulatory fee.

Exemptions

Chapter 205, F.S., provides several exemptions and exclusions from local business taxes. Customary religious, charitable, or educational activities of nonprofit religious, nonprofit charitable, and nonprofit educational institutions are excluded from the definition of "business," "profession," and "occupation" and are thereby excluded from paying local business taxes.⁶ There is an optional partial exemption for businesses located in enterprise zones.⁷ The delivery and transportation of tangible personal property by a business that is otherwise required to pay a local business tax may not be charged a separate local business tax for such delivery or transportation service.⁸ There are also exemptions for persons engaged in specified farming activities,⁹ certain nonresident persons regulated by the Department of Professional Regulation,¹⁰ certain employees of businesses that are required to pay a local business tax,¹¹ certain disabled persons, the aged, and widows with minor dependents,¹² disabled veterans of

¹ Sections 205.033 and 205.042, F.S.

² Section 205.022(5), F.S.

³ Chapter 80-274, L.O.F.

⁴ Chapter 86-298, L.O.F.

⁵ Chapter 2006-152, L.O.F.

⁶ Section 205.022(1), F.S.

⁷ Section 205.054, F.S.

⁸ Section 205.063, F.S.

⁹ Section 205.064, F.S.

¹⁰ Section 205.065, F.S.

¹¹ Section 205.066, F.S.

¹² Section 205.162, F.S.

any war or their unremarried spouses,¹³ and certain mobile home setup operations.¹⁴ Charitable, religious, fraternal, youth, civic, service, or other similar organization that make occasional sales or engage in fundraising projects that are performed exclusively by the members where the proceeds derived from the activities are used exclusively in the charitable, religious, fraternal, youth, civic and service activities of the organization are also exempt.¹⁵ While real estate sales associates and broker associates licensed under ch. 475, F.S., are included in the exemption for employees provided by s. 205.066, F.S., the employee exemption does not apply to any municipality or county which imposes a business tax on individual employees that was adopted by that municipality or county prior to October 13, 2010.¹⁶

Distribution of Revenues

The revenues derived from the business tax imposed by county governments, exclusive of the costs of collection and any credit given for municipal business taxes, are apportioned between the county's unincorporated area and the incorporated municipalities located within the county by a ratio derived by dividing their respective populations by the county's total population.¹⁷ Within 15 days following the month of receipt, the apportioned revenues are sent to each governing authority; however, this provision does not apply to counties that have established a new rate structure pursuant to s. 205.0535, F.S.¹⁸

Authorized Uses of Revenues

The tax proceeds are considered general revenue for the county or municipality. Additionally, the county business tax proceeds may be used for overseeing and implementing a comprehensive economic development strategy through advertising, promotional activities and other sales and marketing techniques.¹⁹ The proceeds of the additional county business tax imposed pursuant to s. 205.033(6), F.S., shall be distributed by the county's governing body to a designated organization or agency for the purpose of implementing a comprehensive economic development strategy through advertising, promotional activities, and other sales and marketing techniques.²⁰

Real Estate Sales and Broker Associates

Chapter 475, F.S., provides for the licensure of real estate brokers and sales associates. Section 475.01, F.S., defines "broker associate" as a person who is qualified to be issued a license as a broker but who operates as a sales associate in the employ of another. "Sales associate" means a person who performs any act specified in the definition of "broker," but who performs such act under the direction, control, or management of another person.

Proposed Changes

Real Estate Sales and Broker Associates Exemption

The bill creates s. 205.067, F.S., which excludes any individual who is licensed and operating as a real estate broker associate or sales associate under ch. 475, F.S., from having to pay a local business tax or obtain a local business tax receipt. They are not required to apply for this exemption.

No local governing authority may hold the individual sales associate or broker associate liable for the failure of his employer to pay local business tax, obtain a local business tax receipt, or apply for an exemption from the local business tax. An employer who is required to obtain a local business tax

¹³ Section 205.171, F.S.

¹⁴ Section 205.193, F.S.

¹⁵ Section 205.192, F.S.

¹⁶ Section 205.066(4), F.S.

¹⁷ Section 205.033(4), F.S.

¹⁸ Section 205.033(5), F.S.

¹⁹ Section 205.033(7), F.S.

²⁰ Section 205.033(6)(b), F.S.

receipt may not be required by a local governing authority to provide contact information to that authority for his or her sales associates and broker associates.

B. SECTION DIRECTORY:

Section 1 creates s. 205.067, F.S., excluding real estate sales and broker associates from the local business tax.

Section 2 amends s. 205.066, F.S., striking a portion of the employee exemption that the bill makes redundant.

Section 3 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimates that this bill will have a negative recurring impact to local governments of -\$3.8 million beginning in FY 2012-13.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Real estate sales and broker associates who are in a local governing authority that adopted a local business tax imposed upon employees prior to October 13, 2010, will no longer have to pay that tax.

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 excludes currently taxable employees from the local business tax. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to exemptions from local business
 3 taxes; creating s. 205.067, F.S.; specifying that an
 4 individual licensed and operating as a broker
 5 associate or sales associate is not required to apply
 6 for an exemption from a local business tax or take
 7 certain actions relating to a local business tax;
 8 prohibiting a local governing authority from holding
 9 such exempt individual liable for the failure of a
 10 principal or employer to comply with certain
 11 obligations related to a local business tax or from
 12 requiring the exempt individual to take certain
 13 actions related to a local business tax; prohibiting a
 14 local governing authority from requiring a principal
 15 or employer to provide personal or contact information
 16 for such exempt individuals in order to obtain a local
 17 business tax receipt; amending s. 205.066, F.S.;
 18 conforming provisions; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 205.067, Florida Statutes, is created
 23 to read:

24 205.067 Exemptions; broker associates and sales
 25 associates.-

26 (1) An individual licensed and operating as a broker
 27 associate or sales associate under chapter 475 is not required
 28 to apply for an exemption from a local business tax, pay a local

29 business tax, or obtain a local business tax receipt.

30 (2) An individual exempt under this section may not be
 31 held liable by any local governing authority for the failure of
 32 a principal or employer to apply for an exemption from a local
 33 business tax, pay a local business tax, or obtain a local
 34 business tax receipt. An individual exempt under this section
 35 may not be required by any local governing authority to apply
 36 for an exemption from a local business tax, otherwise prove his
 37 or her exempt status, or pay any tax or fee related to a local
 38 business tax.

39 (3) A principal or employer who is required to obtain a
 40 local business tax receipt may not be required by a local
 41 governing authority to provide personal or contact information
 42 for individuals exempt under this section in order to obtain a
 43 local business tax receipt.

44 Section 2. Subsection (1) of section 205.066, Florida
 45 Statutes, is amended to read:

46 205.066 Exemptions; employees.-

47 (1) An individual who engages in or manages a business,
 48 profession, or occupation as an employee of another person is
 49 not required to apply for an exemption from a local business
 50 tax, pay a local business tax, or obtain a local business tax
 51 receipt. ~~For purposes of this section, an individual licensed~~
 52 ~~and operating as a broker associate or sales associate under~~
 53 ~~chapter 475 is an employee.~~ An individual acting in the capacity
 54 of an independent contractor is not an employee.

55 Section 3. This act shall take effect July 1, 2012.

HJR 1003

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1003 Tangible Personal Property Tax Exemptions

SPONSOR(S): Eisnaugle

TIED BILLS: HB 1005 IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|-------------------------------|--------|--------------------|---------------------------------------|
| 1) Finance & Tax Committee | | Aldridge <i>WA</i> | Langston <i>DL</i> |
| 2) Economic Affairs Committee | | | |

SUMMARY ANALYSIS

The joint resolution proposes an amendment to the Florida Constitution that would allow the legislature to provide by general law that:

- Taxes on tangible personal property are not due unless the assessed value of the property exceeds a specified amount greater than twenty-five thousand dollars;
- Tangible personal property is subject to taxation at a specified percentage of its assessed value; or
- Tangible personal property is totally exempt from taxation.

The Revenue Estimating Conference adopted a negative indeterminate revenue impact for the joint resolution because the amendment it proposes must be approved by the voters and the legislature must implement the amendment.

The Department of State estimates that the cost of publishing the proposed constitutional amendment, as required by law, is \$108,475.

For the proposed amendment to be placed on the ballot at the general election in November 2012, the legislature must approve the joint resolution by a three-fifths vote of the membership of each house of the legislature.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Tangible Personal Property

Article VII, section 1, of the Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes, including ad valorem taxes on tangible personal property, and establishes requirements that the state legislature and local governments must follow when levying and administering ad valorem property taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing district and that property must be assessed at just value unless the Constitution provides for a different assessment standard.

Tangible personal property is singled out for special treatment in the Constitution. Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes are excluded from ad valorem taxation.¹ Household goods up to \$1,000 in value are exempt.² Tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, classified for tax purposes, or exempted by general law.³ Tangible personal property not specifically exempt from taxation is subject to ad valorem taxation.

Article VII, section 3(e), Florida Constitution, provides for a \$25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation.

Based on the statewide aggregate average 2011 millage rate of 17.67, ad valorem taxes on the tangible personal property included on the 2011 tax roll are expected to amount to \$1.72 billion.

Proposed Changes

The joint resolution proposes an amendment to the Florida Constitution that would allow the legislature by to provide by general law that:

- Taxes on tangible personal property are not due unless the assessed value of the property exceeds a specified amount greater than twenty-five thousand dollars;
- Tangible personal property is subject to taxation at a specified percentage of its assessed value; or
- Tangible personal property is totally exempt from taxation.

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹ Article VII, section 1(b), Florida Constitution

² Article VII, section 3(b), Florida Constitution

³ Article VII, section 4(b), Florida Constitution

2. Expenditures:

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the the full publication costs for advertising the proposed amendment to be \$108,475.⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference adopted a negative indeterminate revenue impact from the joint resolution because the amendment it proposes must be approved by the voters and the legislature must implement the amendment.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the amendment proposed by the joint resolution is approved by the voters, and the legislature implements the provisions contained in the amendment, certain persons owing ad valorem tax on tangible personal property could see a reduction in their taxes.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.⁵ The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by the a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.⁶

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

⁴ Department of State, *House Joint Resolution 1003 (2012) Fiscal Analysis* (December 21, 2011).

⁵ Art. XI, section 1 of the Florida Constitution.

⁶ Art. XI, section 5 of the Florida Constitution.

V. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

House Joint Resolution

A joint resolution proposing an amendment to Section 3 of Article VII and the creation of Section 32 of Article XII of the State Constitution to remove the \$25,000 cap on the amount of the ad valorem tax exemption authorized for tangible personal property and allow the Legislature by general law to specify the amount of the exemption, apply the amendment to assessments for tax years beginning January 1, 2013, and provide effective dates.

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

That the following amendment to Section 3 of Article VII and the creation of Section 32 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational,

29 literary, scientific, religious or charitable purposes may be
30 exempted by general law from taxation.

31 (b) There shall be exempt from taxation, cumulatively, to
32 every head of a family residing in this state, household goods
33 and personal effects to the value fixed by general law, not less
34 than one thousand dollars, and to every widow or widower or
35 person who is blind or totally and permanently disabled,
36 property to the value fixed by general law not less than five
37 hundred dollars.

38 (c) Any county or municipality may, for the purpose of its
39 respective tax levy and subject to the provisions of this
40 subsection and general law, grant community and economic
41 development ad valorem tax exemptions to new businesses and
42 expansions of existing businesses, as defined by general law.
43 Such an exemption may be granted only by ordinance of the county
44 or municipality, and only after the electors of the county or
45 municipality voting on such question in a referendum authorize
46 the county or municipality to adopt such ordinances. An
47 exemption so granted shall apply to improvements to real
48 property made by or for the use of a new business and
49 improvements to real property related to the expansion of an
50 existing business and shall also apply to tangible personal
51 property of such new business and tangible personal property
52 related to the expansion of an existing business. The amount or
53 limits of the amount of such exemption shall be specified by
54 general law. The period of time for which such exemption may be
55 granted to a new business or expansion of an existing business
56 shall be determined by general law. The authority to grant such

57 exemption shall expire ten years from the date of approval by
 58 the electors of the county or municipality, and may be renewable
 59 by referendum as provided by general law.

60 (d) Any county or municipality may, for the purpose of its
 61 respective tax levy and subject to the provisions of this
 62 subsection and general law, grant historic preservation ad
 63 valorem tax exemptions to owners of historic properties. This
 64 exemption may be granted only by ordinance of the county or
 65 municipality. The amount or limits of the amount of this
 66 exemption and the requirements for eligible properties must be
 67 specified by general law. The period of time for which this
 68 exemption may be granted to a property owner shall be determined
 69 by general law.

70 (e) By general law and subject to conditions specified
 71 therein, not less than twenty-five thousand dollars of the
 72 assessed value of property subject to tangible personal property
 73 tax shall be exempt from ad valorem taxation. The legislature
 74 may also provide by general law that:

75 (1) Taxes on tangible personal property are not due unless
 76 the assessed value of the property exceeds a specified amount
 77 greater than twenty-five thousand dollars;

78 (2) Tangible personal property is subject to taxation at a
 79 specified percentage of its assessed value; or

80 (3) Tangible personal property is totally exempt from
 81 taxation.

82 (f) There shall be granted an ad valorem tax exemption for
 83 real property dedicated in perpetuity for conservation purposes,
 84 including real property encumbered by perpetual conservation

85 easements or by other perpetual conservation protections, as
 86 defined by general law.

87 (g) By general law and subject to the conditions specified
 88 therein, each person who receives a homestead exemption as
 89 provided in section 6 of this article; who was a member of the
 90 United States military or military reserves, the United States
 91 Coast Guard or its reserves, or the Florida National Guard; and
 92 who was deployed during the preceding calendar year on active
 93 duty outside the continental United States, Alaska, or Hawaii in
 94 support of military operations designated by the legislature
 95 shall receive an additional exemption equal to a percentage of
 96 the taxable value of his or her homestead property. The
 97 applicable percentage shall be calculated as the number of days
 98 during the preceding calendar year the person was deployed on
 99 active duty outside the continental United States, Alaska, or
 100 Hawaii in support of military operations designated by the
 101 legislature divided by the number of days in that year.

102 ARTICLE XII

103 SCHEDULE

104 SECTION 32. Tangible personal property; ad valorem tax
 105 exemption.—The amendment to Section 3 of Article VII removing
 106 the cap on the amount of the ad valorem tax exemption authorized
 107 for tangible personal property and allowing the legislature to
 108 exempt certain amounts of the assessed value of tangible
 109 personal property from ad valorem taxation shall take effect
 110 upon approval by the electors and shall apply to assessments for
 111 tax years beginning January 1, 2013. This section shall take
 112 effect upon approval of the electors.

HJR 1003

2012

113 BE IT FURTHER RESOLVED that the following statement be
 114 placed on the ballot:

115 CONSTITUTIONAL AMENDMENT

116 ARTICLE VII, SECTION 3

117 ARTICLE XII, SECTION 32

118 TANGIBLE PERSONAL PROPERTY; AD VALOREM TAX EXEMPTIONS;
 119 REMOVAL OF THE \$25,000 CAP.—

120 Currently the State Constitution specifies that \$25,000 of
 121 the assessed value of tangible personal property is exempt from
 122 ad valorem taxation. The amendment requires the Legislature by
 123 general law to provide that at least \$25,000 of the assessed
 124 value of tangible personal property is exempt from ad valorem
 125 taxation. In addition, the amendment authorizes the Legislature
 126 to provide that tangible personal property subject to ad valorem
 127 taxation:

128 (1) Is any amount greater than \$25,000 of the assessed
 129 value of the property that the legislature specifies in general
 130 law and taxes are not due on any amount less than that specified
 131 amount;

132 (2) Is any percentage amount of the assessed value of the
 133 property that the legislature specifies in general law; or

134 (3) Is the total amount of the assessed value of the
 135 property as specified by the legislature in general law.


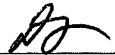
136 This amendment takes effect upon approval of the voters and
 137 applies to assessments for tax years beginning January 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1005 Tangible Personal Property Taxation

SPONSOR(S): Eisnaugle

TIED BILLS: HJR 1003 IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|-------------------------------|--------|--|--|
| 1) Finance & Tax Committee | | Aldridge  | Langston  |
| 2) Economic Affairs Committee | | | |

SUMMARY ANALYSIS

The bill implements the proposed constitutional amendment contained in HJR 1003. Specifically, it creates an additional exemption from ad valorem taxation of tangible personal property of up to \$25,000 of taxable value. The result, as described below is an additional exemption above the current \$25,000 exemption for assessed values between \$25,001 and \$50,000. Taxpayers with tangible personal property subject to ad valorem taxation with an assessed value above \$50,000 will not qualify for the additional exemption provided in the bill.

The bill takes effect upon the approval of the amendment proposed by HJR 1003 by the voters. The bill will operate prospectively to tax rolls submitted to the Department of Revenue by each county tax collector beginning January 2013 and each January thereafter and do not provide a basis for relief from or assessment of taxes not paid or for determining any denial of or a right to a refund of taxes paid before the effective date of this bill.

The Revenue Estimating Conference has estimated that, if the amendment proposed by HJR 1003 is approved by the voters, assuming current millage rates, the estimated statewide impact of the bill would be annual reductions in local government revenues of \$20.1 million beginning in fiscal year 2013-14, increasing to \$20.3 million in fiscal year 2014-15, and \$20.6 million in fiscal year 2015-16.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Tangible Personal Property

Article VII, section 1, of the Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes, including ad valorem taxes on tangible personal property, and establishes requirements that the state legislature and local governments must follow when levying and administering ad valorem property taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing district and that property must be assessed at just value unless the Constitution provides for a different assessment standard.

Tangible personal property is singled out for special treatment in the Constitution. Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes are excluded from ad valorem taxation.¹ Household goods up to \$1,000 in value are exempt.² Tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, classified for tax purposes, or exempted by general law.³ Tangible personal property not specifically exempt from taxation is subject to ad valorem taxation.

Article VII, section 3(e), Florida Constitution, provides for a \$25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation. This exemption is implemented in s. 196.183, F.S.

Section 196.183(1), F.S., provides that a single return must be filed for each site in the county where the owner of tangible personal property transacts business. Owners of freestanding property placed at multiple sites, other than sites where the owner transacts business, must file a single return, including all such property located in the county. Freestanding property placed at multiple sites includes vending and amusement machines, LP/propane tanks, utility and cable company property, billboards, leased equipment, and similar property that is not customarily located in the offices, stores, or plants of the owner, but is placed throughout the county.

Section 196.183(3), F.S., waives the return filing requirement under s. 193.052, F.S., for taxpayers owning taxable property the value of which, as listed on the return, does not exceed the \$25,000 exemption. In order to qualify for this waiver, a taxpayer must file an initial return on which the exemption is taken. If, in subsequent years, the taxpayer owns taxable property the value of which, as listed on the return, exceeds the exemption, the taxpayer is obligated to file a return. The taxpayer may again qualify for the waiver only after filing a return on which the value as listed on the return does not exceed the exemption. A return filed or required to be filed shall be considered an application filed or required to be filed for the exemption under this section.

Proposed Changes

The bill implements the proposed constitutional amendment contained in HJR 1003. Specifically, it creates an additional exemption from ad valorem taxation of tangible personal property of \$25,000 of taxable value. The bill then provides another waiver process beyond the one described above, where in order to qualify for this additional exemption, a taxpayer must file an initial return disclosing the taxable value of their property. The filing of this initial return does not result in the taxpayer incurring any tax liability. If, in subsequent years, the taxpayer owns taxable property the value of which, as listed on the

¹ Article VII, section 1(b), Florida Constitution

² Article VII, section 3(b), Florida Constitution

³ Article VII, section 4(b), Florida Constitution

return, exceeds \$25,000, the taxpayer is obligated to file a return. The taxpayer may again qualify for the waiver only after filing a return on which the value as listed on the return does not exceed \$25,000.

The effect of this approach to implementing the constitutional amendment contained in HJR 1003 is that it provides an additional \$25,000 exemption from ad valorem taxation of tangible personal property, but only to persons who would report on their returns property valued at \$50,000 or less. If the total value required to be reported on the taxpayer's return exceeds \$50,000, the additional exemption created by this bill is unavailable.

The bill takes effect upon the approval of the amendment proposed by HJR 1003 by the voters. The bill will operate prospectively to tax rolls submitted to the Department of Revenue by each county tax collector beginning January 2013 and each January thereafter and do not provide a basis for relief from or assessment of taxes not paid or for determining any denial of or a right to a refund of taxes paid before the effective date of this bill.

B. SECTION DIRECTORY:

Section 1: Provides an exemption from ad valorem taxation of tangible personal property.

Section 2: Provides that the act shall operate prospectively as specified.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that, if the amendment proposed by HJR 1003 is approved by the voters, **assuming current millage rates**, the estimated statewide impact of the bill would be annual reductions in local government revenues of \$20.1 million beginning in fiscal year 2013-14, increasing to \$20.3 million in fiscal year 2014-15, and \$20.6 million in fiscal year 2015-16.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If this bill had been in effect for the 2011 tax rolls, approximately 156,000 additional taxpayer accounts would have been exempt from the tax (just under 50% of all accounts with a positive taxable value).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill implements a constitutional amendment to which the mandates provision of s. 18, Art. VII of the State Constitution, does not apply.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to tangible personal property
 3 taxation; amending s. 196.183, F.S.; waiving the
 4 requirement to file an annual tangible personal
 5 property tax return for certain taxpayers who own
 6 taxable property the taxable value of which does not
 7 exceed a specified amount; providing conditions and
 8 requirements for qualifying for such waiver; providing
 9 application; providing a contingent effective date.

10

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

12

13 Section 1. Section 196.183, Florida Statutes, is amended
 14 to read:

15 196.183 Exemption for tangible personal property.—

16 (1) Each tangible personal property tax return is eligible
 17 for an exemption from ad valorem taxation of up to \$25,000 of
 18 assessed value. A single return must be filed for each site in
 19 the county where the owner of tangible personal property
 20 transacts business. Owners of freestanding property placed at
 21 multiple sites, other than sites where the owner transacts
 22 business, must file a single return, including all such property
 23 located in the county. Freestanding property placed at multiple
 24 sites includes vending and amusement machines, LP/propane tanks,
 25 utility and cable company property, billboards, leased
 26 equipment, and similar property that is not customarily located
 27 in the offices, stores, or plants of the owner, but is placed
 28 throughout the county. Railroads, private carriers, and other

29 companies assessed pursuant to s. 193.085 shall be allowed one
 30 \$25,000 exemption for each county to which the value of their
 31 property is allocated. The \$25,000 exemption for freestanding
 32 property placed at multiple locations and for centrally assessed
 33 property shall be allocated to each taxing authority based on
 34 the proportion of just value of such property located in the
 35 taxing authority; however, the amount of the exemption allocated
 36 to each taxing authority may not change following the extension
 37 of the tax roll pursuant to s. 193.122.

38 (2) For purposes of this section, a "site where the owner
 39 of tangible personal property transacts business" includes
 40 facilities where the business ships or receives goods, employees
 41 of the business are located, goods or equipment of the business
 42 are stored, or goods or services of the business are produced,
 43 manufactured, or developed, or similar facilities located in
 44 offices, stores, warehouses, plants, or other locations of the
 45 business. Sites where only the freestanding property of the
 46 owner is located shall not be considered sites where the owner
 47 of tangible personal property transacts business.

48 (3) The requirement that an annual tangible personal
 49 property tax return pursuant to s. 193.052 be filed is waived
 50 for taxpayers who own ~~owning~~ taxable personal property:

51 (a) The value of which, as listed on the return, does not
 52 exceed the exemption provided in this section ~~is waived~~. In
 53 order to qualify for the ~~this~~ waiver under this paragraph, a
 54 taxpayer must file an initial return on which the exemption is
 55 taken. If, in subsequent years, the taxpayer owns taxable
 56 property the value of which, as listed on the return, exceeds

57 | the exemption, the taxpayer is obligated to file a return. The
 58 | taxpayer may again qualify for the waiver only after filing a
 59 | return on which the value as listed on the return does not
 60 | exceed the exemption. A return filed or required to be filed
 61 | shall be considered an application filed or required to be filed
 62 | for the exemption under this section; or

63 | (b) The taxable value of which does not exceed \$25,000. In
 64 | order to qualify for the waiver under this paragraph, a taxpayer
 65 | must file an initial return disclosing the taxable value of the
 66 | property. The filing of an initial return does not result in the
 67 | taxpayer incurring any tax liability. If, in subsequent years,
 68 | the taxpayer owns taxable property the value of which, as listed
 69 | on the return, exceeds \$25,000, the taxpayer is obligated to
 70 | file a return. The taxpayer may again qualify for the waiver
 71 | only after filing a return on which the value as listed on the
 72 | return does not exceed \$25,000.

73 | (4) Owners of property previously assessed by the property
 74 | appraiser without a return being filed may, at the option of the
 75 | property appraiser, qualify for the exemption under this section
 76 | without filing an initial return.

77 | (5) The exemption provided in this section does not apply
 78 | in any year a taxpayer fails to timely file a return that is not
 79 | waived pursuant to subsection (3) or subsection (4). Any
 80 | taxpayer who received a waiver pursuant to subsection (3) or
 81 | subsection (4) and who owns taxable property the value of which,
 82 | as listed on the return, exceeds the exemption in a subsequent
 83 | year and who fails to file a return with the property appraiser
 84 | is subject to the penalty contained in s. 193.072(1)(a)

85 | calculated without the benefit of the exemption pursuant to this
 86 | section. Any taxpayer claiming more exemptions than allowed
 87 | pursuant to subsection (1) is subject to the taxes exempted as a
 88 | result of wrongfully claiming the additional exemptions plus 15
 89 | percent interest per annum and a penalty of 50 percent of the
 90 | taxes exempted. By February 1 of each year, the property
 91 | appraiser shall notify by mail all taxpayers whose requirement
 92 | for filing an annual tangible personal property tax return was
 93 | waived in the previous year. The notification shall state that a
 94 | return must be filed if the value of the taxpayer's tangible
 95 | personal property exceeds the exemption and include the
 96 | penalties for failure to file such a return.

97 | (6) The exemption provided in this section does not apply
 98 | to a mobile home that is presumed to be tangible personal
 99 | property pursuant to s. 193.075(2).

100 | Section 2. The revisions to s. 196.183, Florida Statutes,
 101 | by this act operate prospectively to tax rolls submitted to the
 102 | Department of Revenue by each county tax collector beginning
 103 | January 2013 and each January thereafter and do not provide a
 104 | basis for relief from or assessment of taxes not paid or for
 105 | determining any denial of or a right to a refund of taxes paid
 106 | before the effective date of this act.

107 | Section 3. This act shall take effect upon the approval of
 108 | House Joint Resolution 1003, or a similar joint resolution
 109 | having substantially the same specific intent and purpose, at
 110 | the general election to be held in November 2012 or at an
 111 | earlier special election specifically authorized by law for that
 112 | purpose.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

3
4 **Amendment (with title amendment)**

5 Remove lines 100-106 and insert:

6 Section 2. The revisions to s. 196.081 under this act
7 operate prospectively to the 2013 tax roll and do not provide a
8 basis for relief from an assessment of taxes not paid or create
9 a right to a refund of taxes paid before January 1, 2013.

10 Section 3. Effective July 1, 2012, the sum of \$108,475 in
11 nonrecurring funds is appropriated from the General Revenue Fund
12 to the Department of State for purposes of publishing, as
13 required under Section 5(d), Art. XI of the State Constitution,
14 the proposed constitutional amendment contained in House Joint
15 Resolution 1003, or a similar joint resolution having
16 substantially the same specific intent and purpose.

17
18 -----
19 **T I T L E A M E N D M E N T**

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1005 (2012)

Amendment No. 1

20 Remove line 9 and insert:

21 application; providing an appropriation; providing a contingent


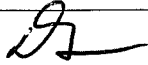
22 effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1119 New Markets Development Program

SPONSOR(S): Crisafulli

TIED BILLS: IDEN./SIM. BILLS: SB 1150

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|-----------|--|--|
| 1) Business & Consumer Affairs Subcommittee | 14 Y, 0 N | Fennell | Creamer |
| 2) Finance & Tax Committee | | Wilson  | Langston  |
| 3) Economic Affairs Committee | | | |

SUMMARY ANALYSIS

HB 1119 increases the total amount of tax credits available to be allocated for the New Markets Development Program from \$97.5 million to \$195 million.

In addition, the legislation increases from six to seven the number of years that a qualified community development entity is prohibited from making cash interest payments in excess of their operating income on long term debt securities issued as qualified investments. The bill also clarifies how interest expenses are to be treated for purposes of certain operating income calculations.

On January 6, 2011, the Revenue Estimating Conference determined HB 1119 has no impact to General Revenue in the 2012-13 or the 2013-14 fiscal years. The first revenue impacts will be in Fiscal Year 2014-15 at -\$18 million, then -\$20 million in each of the next four years.

The bill becomes effective on July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

How the Program Works

Under this program, federally-certified Community Development Entities (CDE), which have entered into allocation agreements with the U.S. Treasury, have the ability to apply to the Department of Economic Opportunity for a certification of Florida tax credits. The CDE must show that it is prepared to invest capital into qualified businesses in Florida's low-income communities. The certification process includes proof of the CDE's eligibility, identification of its investors, description of the investments to be raised by the CDE, information regarding how the investments will be used, and a description of the CDE's efforts to partner with local community-based groups. The Department is also able to request additional information needed to verify continued certification. The Department certifies qualified applications on a first-come, first-served basis. Once the Department certifies a CDE's qualified equity investment, the CDE has 30 days to raise its investment capital (the qualified equity investment) and then 12 months to invest a minimum of 85 percent of the purchase price in qualified low-income investments. Thereafter, the CDE must annually report to the Department information including:

- Audited financial statements;
- the industries for the investments;
- the counties investments were made in;
- the number of jobs created; and
- verification that the average wages paid are at least equal to 115 percent of the federal poverty income guidelines for a family of four.

Any failure by a CDE to follow either Florida or federal law may result in the state recapturing tax credits claimed, together with interest and penalties.

Current law prohibits a CDE from making cash payments on long-term debt securities that are qualified investments in excess of the CDE's operating income for six years following the issuance of the security. Current administration of the program requires interest payments to be deducted from operating income for purposes of the above determination, which creates an artificial limitation on the ability of CDEs to make interest payments.

Tax Credits

The New Markets Tax Credit Program (NMTC) allows a tax credit to be taken against the corporate income tax found in section 220.11, Florida Statutes or the insurance premium tax found in section 624.509, Florida Statutes. This credit may be claimed after the investment has been made and held for a minimum of two years. Therefore, no credit can be claimed in the first two years. In year three the credit is worth seven percent of the investment, and from the fourth year through the seventh year the credit is worth 8 percent each year. Over seven years this credit totals 39 percent of the total investment. Any unused portion of the tax credit may be carried forward for future tax years; however, all tax credits expire on December 31, 2022. The program has a cap of \$97.5 million on the total of tax credits allowed to be allocated to all investments. Therefore, no more than \$17.5 million in tax credits may be claimed in the third fiscal year and no more than \$20 million in tax credits may be claimed in any of the subsequent four fiscal years. The bill does not allow the transfer or sale of tax credits, but does allow a tax credit to travel with the purchase of an investment to a new owner.

Federal New Markets Tax Credit¹

The State New Markets Development Program was mirrored after the federal program. The Federal New Markets Tax Credit (NMTC) Program permits taxpayers to receive a credit against federal income taxes for making qualified equity investments in designated Community Development Entities (CDEs). The CDE must in turn invest the qualified equity investments in low-income communities. The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a seven-year period. In each of the first three years, the investor receives a credit equal to five percent of the total amount paid for the stock or capital interest at the time of purchase. For the final four years, the value of the credit is six percent annually. Investors may not redeem their investments in CDEs prior to the conclusion of the seven-year period. An organization wishing to receive allocations under the federal NMTC Program must be certified as a CDE by the US Department of Treasury. To qualify as a CDE, an organization must:

- Be a domestic corporation or partnership at the time of the certification application;
- Demonstrate a primary mission of serving, or providing investment capital for low-income communities or low-income persons; and
- Maintain accountability to residents of low-income communities through representation on a governing board of or advisory board to the entity.

As stated above, the federal program and the state program provides credits totaling 39 percent of the investment over a seven year period. Therefore, a qualified taxpayer with a qualified investment approved for both the federal and state program could receive 78 percent of the purchase price of the investment in tax credits over seven years. In addition to the tax credits that are received, the investor also has the potential to receive benefit from the results of the investment and eventual return of their principal.

Effect of Proposed Changes

HB 1119 increases the total amount of tax credits available to be allocated for the New Markets Development Program from \$97.5 million to \$195 million.

In addition, the legislation increases from six to seven the number of years that a qualified community development entity is prohibited from making cash interest payments in excess of their operating income on long term debt securities issued as qualified investments.

B. SECTION DIRECTORY:

Section 1: Amends s. 288.914, Florida Statutes, to increase the available tax credits from \$97.5 million to \$195 million.

Section 2: Amends 288.915, Florida Statutes, to increase the prohibition on participants making certain interest payments from 6 years to 7 years.

Section 3: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

On January 6, 2011, the Revenue Estimating Conference determined HB 1119 has no impact to General Revenue in the 2012-13 or the 2013-14 fiscal years. The first revenue impacts will be in Fiscal Year 2014-15 at -\$18 million, then -\$20 million in each of the next four years.

¹ Federal New Markets Tax Credit Program http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5 (last visited on January 30, 2012)

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The New Markets Development program draws private sector investment into low-income rural and urban communities that may not otherwise have occurred.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to the New Markets Development
 3 Program; amending s. 288.9914, F.S.; revising limits
 4 on tax credits that may be claimed by qualified
 5 community development entities under the program;
 6 amending s. 288.9915, F.S.; revising restrictions on a
 7 quality community development entity's making of cash
 8 interest payments on certain long-term debt
 9 securities; providing an effective date.

10

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

12

13 Section 1. Paragraph (c) of subsection (3) of section
 14 288.9914, Florida Statutes, is amended to read:

15 288.9914 Certification of qualified investments;
 16 investment issuance reporting.—

17 (3) REVIEW.—

18 (c) The department may not approve a cumulative amount of
 19 qualified investments that may result in the claim of more than
 20 \$195 ~~\$97.5~~ million in tax credits during the existence of the
 21 program or more than \$40 ~~\$20~~ million in tax credits in a single
 22 state fiscal year. However, the potential for a taxpayer to
 23 carry forward an unused tax credit may not be considered in
 24 calculating the annual limit.

25 Section 2. Subsection (1) of section 288.9915, Florida
 26 Statutes, is amended to read:

27 288.9915 Use of proceeds from qualified investments;
 28 recordkeeping.—

29 (1) A qualified community development entity, before
 30 giving effect to the interest expense of ~~may not make cash~~
 31 ~~interest payments on~~ a long-term debt security that is a
 32 qualified investment in excess of the entity's cumulative
 33 operating income, may not make cash interest payments on such
 34 security for 7 6 years after ~~following the~~ issuance of such the
 35 security.

36 Section 3. This act shall take effect July 1, 2012.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

5 Remove lines 29-35 and insert:

6 (1) A qualified community development entity may not make
 7 cash interest payments on a long-term debt security that is a
 8 qualified investment in excess of the entity's cumulative
 9 operating income earned during the 7 for 6 years after following
 10 the issuance of the security. For purposes of calculating
 11 operating income, the interest expense on the security is
 12 disregarded.

13 -----
 14 **T I T L E A M E N D M E N T**

15 Remove line 7 and insert:

16
 17 qualified community development entity's making of cash
 18

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1289 Additional Homestead Exemption
SPONSOR(S): Brodeur
TIED BILLS: HB 1291 **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|--------|--------------------|--|
| 1) Finance & Tax Committee | | Aldridge <i>WA</i> | Langston <i>[Signature]</i> |
| 2) Community & Military Affairs Subcommittee | | | |
| 3) Economic Affairs Committee | | | |

SUMMARY ANALYSIS

The joint resolution proposes an amendment to the Florida Constitution that, if approved by the voters and implemented by the legislature would allow individuals who establish a right to receive a homestead exemption under Article VII, section 6(a), of the Florida Constitution, to receive an additional homestead exemption for all non-school property taxes. This exemption is equal to 30 percent of the homestead property's just value in excess of \$75,000 but less than or equal to \$200,000, plus 15 percent of the homestead property's just value in excess of \$200,000 but less than or equal to \$400,000. The value of the additional homestead exemption shall be reduced by the difference between the just value of the property and the assessed value of the property determined under Article VII, section 4(d), of the Florida Constitution (i.e., the "Save Our Homes" differential).

The amendment would also allow the Legislature, by general law, to adjust the percent of just value or the maximum and minimum levels of just value used to calculate the additional homestead exemption, but may not reduce the value of the additional exemption below the value established in this amendment. The exemption does not apply to school levies. This provision would allow the Legislature to totally exempt homestead property from non-school property taxes.

The proposed amendment, if submitted to the voters and approved at a special election authorized by general law will operate retroactively to January 1, 2012, or, if submitted to and approved by the voters at the 2012 general election, shall take effect January 1, 2013.

The Revenue Estimating Conference adopted a negative indeterminate revenue impact for the joint resolution because the amendment it proposes must be approved by the voters. If the provisions of the constitutional amendment are approved by the voters and are effective beginning in 2013, the result would be an estimated negative revenue impact on non-school property taxes of \$565.1 million in FY 2013-14, \$576.0 million in FY 2014-15 and \$579.6 million in FY 2015-16, **assuming current millage rates.**

The Department of State estimates that the cost of publishing the proposed constitutional amendment, as required by law, is \$115,056.

For the proposed amendment to be placed on the ballot at the general election in November 2012, the legislature must approve the joint resolution by a three-fifths vote of the membership of each house of the legislature. For the proposed amendment to be placed on the ballot at a special election, a special election must be scheduled pursuant to law enacted by a three-fourths vote of the membership of each house of the legislature.¹

¹ Art. XI, section 5(a) of the Florida Constitution.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Just Value

Article VII, section 4 of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. "Just value" is synonymous with "fair market value" and is defined as what a willing buyer would pay a willing seller for the property in an arm's length transaction.²

Assessed Value

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.³ Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.⁴ Land used for conservation purposes must be assessed solely on the basis of character or use.⁵ Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or be totally exempted from taxation.⁶ Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.⁷ Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.⁸ The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.⁹ Certain working waterfront property is assessed based upon the property's current use.¹⁰

Assessment Limitations

Save Our Homes

The "Save Our Homes" provision in Article VII, section 4 of the Florida Constitution, limits the amount a homestead's assessed value can increase annually to the lesser of 3 percent or the inflation rate as measured by the consumer price index (CPI).¹¹ Homestead property owners that establish a new homestead may transfer up to \$500,000 of their accrued "Save Our Homes" benefit to a new homestead.¹²

Additional Assessment Limitations

Article VII, sections 4(g) and (h), of the Florida Constitution, provide an assessment limitation for non-homestead residential real property containing nine or fewer units, and for all real property not subject to other specified assessment limitations. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more

² See *Walter v. Shuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); and *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

³ The constitutional provisions in section 4, Art. VII, of the Florida Constitution, are implemented in Part II of ch. 193, F.S.

⁴ Art. VII, section 4(a) of the Florida Constitution.

⁵ Art. VII, section 4(b) of the Florida Constitution.

⁶ Art. VII, section 4(c) of the Florida Constitution.

⁷ Art. VII, section 4(e) of the Florida Constitution.

⁸ Art. VII, section 4(f) of the Florida Constitution.

⁹ Art. VII, section 4(i) of the Florida Constitution.

¹⁰ Art. VII, section 4(j) of the Florida Constitution.

¹¹ Art. VII, section 4(d) of the Florida Constitution.

¹² Art. VII, section 4(d) of the Florida Constitution.

than 10 percent of the assessment in the prior year. However, residential real property containing nine or fewer units must be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature may provide that such property shall be assessed at just value after a change of ownership or control and must provide for reassessment following a qualifying improvement, as defined by general law.

Exemptions

The Legislature may only grant property tax exemptions that are authorized in the constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.¹³

Homestead Exemption

Article VII, section 6 of the Florida Constitution, provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Other Exemptions

Article VII, section 3 of the Florida Constitution, provides for other specific exemptions from property taxes. Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law.¹⁴ Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.¹⁵ A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.¹⁶ A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.¹⁷ Tangible personal property is exempt up to \$25,000 of its assessed value.¹⁸ There is an exemption for real property dedicated in perpetuity for conservation purposes.¹⁹ There is an exemption for military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.²⁰

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes.

Proposed Changes

Additional Homestead Exemption

The joint resolution proposes an amendment to the Florida Constitution that, if approved by the voters and implemented by the legislature would create subsection (f) in section 6, Article VII, of the Florida Constitution. This amendment allows individuals who establish a right to receive a homestead

¹³ See *Sebring Airport Authority v. McIntyre*, 783 So. 2d 238 (Fla. 2001). See also, *Archer v. Marshall*, 355 So. 2d 781, 784 (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

¹⁴ Art. VII, section 3(a) of the Florida Constitution.

¹⁵ Art. VII, section 3(b) of the Florida Constitution.

¹⁶ Art. VII, section 3(c) of the Florida Constitution.

¹⁷ Art. VII, section 3(d) of the Florida Constitution.

¹⁸ Art. VII, section 3(e) of the Florida Constitution.

¹⁹ Art. VII, section 3(f) of the Florida Constitution.

²⁰ Art. VII, section 3(g) of the Florida Constitution.

exemption under Article VII, section 6(a), of the Florida Constitution, to receive an additional homestead exemption for all non-school property taxes. This exemption is equal to 30 percent of the homestead property's just value in excess of \$75,000 but less than or equal to \$200,000, plus 15 percent of the homestead property's just value in excess of \$200,000 but less than or equal to \$400,000. The value of the additional homestead exemption shall be reduced by the difference between the just value of the property and the assessed value of the property determined under Article VII, section 4(d), of the Florida Constitution (i.e., the "Save Our Homes" differential).

The amendment would also allow the Legislature, by general law, to adjust the percent of just value or the maximum and minimum levels of just value used to calculate the additional homestead exemption, but may not reduce the value of the additional exemption below the value established in this subsection. The exemption does not apply to school levies. This provision would allow the Legislature to totally exempt homestead property from non-school property taxes.

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Art. XI, section 5(d), of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the the full publication costs for advertising the proposed amendment to be \$115,056.²¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. The Revenue Estimating Conference adopted a negative indeterminate revenue impact for the joint resolution because the amendment it proposes must be approved by the voters. If the provisions of the constitutional amendment are approved by the voters and are effective beginning in 2013, the result would be an estimated negative revenue impact on non-school property taxes of \$565.1 million in FY 2013-14, \$576.0 million in FY 2014-15 and \$579.6 million in FY 2015-16, **assuming current millage rates.**

3. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If approved by the voters, homestead owners whose just values are greater than \$75,000 may experience reductions in ad valorem taxes. To the extent that local taxing authorities' budgets are not reduced, the tax burden on other properties will increase to offset these tax losses.

²¹ Department of State, *House Joint Resolution 1289 (2012) Fiscal Analysis* (January 25, 2012).
STORAGE NAME: h1289.FTC.DOCX
DATE: 1/30/2012

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.²² The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by the a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.²³

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

²² Art. XI, section 1 of the Florida Constitution.

²³ Art. XI, section 5 of the Florida Constitution.

House Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of Section 32 of Article XII of the State Constitution to provide an additional homestead exemption for owners of homestead property, authorize the Legislature to adjust the amount of the exemption, provide that the additional exemption is to be reduced by the difference between the just value and the assessed value, and provide effective dates.

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

That the following amendment to Section 6 of Article VII and the creation of Section 32 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.-

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district

29 levies, on the assessed valuation greater than fifty thousand
 30 dollars and up to seventy-five thousand dollars, upon
 31 establishment of right thereto in the manner prescribed by law.
 32 The real estate may be held by legal or equitable title, by the
 33 entireties, jointly, in common, as a condominium, or indirectly
 34 by stock ownership or membership representing the owner's or
 35 member's proprietary interest in a corporation owning a fee or a
 36 leasehold initially in excess of ninety-eight years. The
 37 exemption shall not apply with respect to any assessment roll
 38 until such roll is first determined to be in compliance with the
 39 provisions of section 4 by a state agency designated by general
 40 law. This exemption is repealed on the effective date of any
 41 amendment to this Article which provides for the assessment of
 42 homestead property at less than just value.

43 (b) Not more than one exemption shall be allowed any
 44 individual or family unit or with respect to any residential
 45 unit. No exemption shall exceed the value of the real estate
 46 assessable to the owner or, in case of ownership through stock
 47 or membership in a corporation, the value of the proportion
 48 which the interest in the corporation bears to the assessed
 49 value of the property.

50 (c) By general law and subject to conditions specified
 51 therein, the Legislature may provide to renters, who are
 52 permanent residents, ad valorem tax relief on all ad valorem tax
 53 levies. Such ad valorem tax relief shall be in the form and
 54 amount established by general law.

55 (d) The legislature may, by general law, allow counties or
 56 municipalities, for the purpose of their respective tax levies

57 | and subject to the provisions of general law, to grant an
 58 | additional homestead tax exemption not exceeding fifty thousand
 59 | dollars to any person who has the legal or equitable title to
 60 | real estate and maintains thereon the permanent residence of the
 61 | owner and who has attained age sixty-five and whose household
 62 | income, as defined by general law, does not exceed twenty
 63 | thousand dollars. The general law must allow counties and
 64 | municipalities to grant this additional exemption, within the
 65 | limits prescribed in this subsection, by ordinance adopted in
 66 | the manner prescribed by general law, and must provide for the
 67 | periodic adjustment of the income limitation prescribed in this
 68 | subsection for changes in the cost of living.

69 | (e) Each veteran who is age 65 or older who is partially
 70 | or totally permanently disabled shall receive a discount from
 71 | the amount of the ad valorem tax otherwise owed on homestead
 72 | property the veteran owns and resides in if the disability was
 73 | combat related, the veteran was a resident of this state at the
 74 | time of entering the military service of the United States, and
 75 | the veteran was honorably discharged upon separation from
 76 | military service. The discount shall be in a percentage equal to
 77 | the percentage of the veteran's permanent, service-connected
 78 | disability as determined by the United States Department of
 79 | Veterans Affairs. To qualify for the discount granted by this
 80 | subsection, an applicant must submit to the county property
 81 | appraiser, by March 1, proof of residency at the time of
 82 | entering military service, an official letter from the United
 83 | States Department of Veterans Affairs stating the percentage of
 84 | the veteran's service-connected disability and such evidence

85 that reasonably identifies the disability as combat related, and
 86 a copy of the veteran's honorable discharge. If the property
 87 appraiser denies the request for a discount, the appraiser must
 88 notify the applicant in writing of the reasons for the denial,
 89 and the veteran may reapply. The Legislature may, by general
 90 law, waive the annual application requirement in subsequent
 91 years. This subsection shall take effect December 7, 2006, is
 92 self-executing, and does not require implementing legislation.

93 (f) Every person who has established the right to receive
 94 the homestead exemption provided in subsection (a) is entitled
 95 to an additional homestead exemption for all levies other than
 96 school district levies in an amount equal to 30 percent of the
 97 homestead property's just value in excess of \$75,000 but less
 98 than or equal to \$200,000, plus 15 percent of the homestead
 99 property's just value in excess of \$200,000 but less than or
 100 equal to \$400,000. The value of the additional homestead
 101 exemption shall be reduced by the difference between the just
 102 value of the property and the assessed value of the property
 103 determined under Section 4(d). By general law, the legislature
 104 may adjust the percent of just value or the maximum and minimum
 105 levels of just value used to calculate the additional homestead
 106 exemption, but may not reduce the value of the additional
 107 exemption below the value established in this subsection.

108 ARTICLE XII

109 SCHEDULE

110 Section 32. Additional homestead exemption.-This section
 111 and the amendment to Section 6 of Article VII providing for an
 112 additional homestead exemption, if submitted to the electors of

113 this state for approval or rejection at a special election
 114 authorized by law, shall take effect upon approval by the
 115 electors and shall operate retroactively to January 1, 2012, or,
 116 if submitted to the electors of this state for approval or
 117 rejection at the 2012 general election, shall take effect
 118 January 1, 2013.

119 BE IT FURTHER RESOLVED that the following statement be
 120 placed on the ballot:

121 CONSTITUTIONAL AMENDMENT

122 ARTICLE VII, SECTION 6

123 ARTICLE XII, SECTION 32


124 ADDITIONAL HOMESTEAD EXEMPTION.—This amendment provides
 125 owners of homestead property an additional homestead exemption
 126 for all levies other than school district levies in an amount
 127 equal to 30 percent of the homestead property's just value
 128 between \$75,000 and \$200,000, plus 15 percent of the homestead
 129 property's just value between \$200,000 and \$400,000. The
 130 Legislature may adjust the amount of the additional homestead
 131 exemption but may not reduce it below what is provided in this
 132 amendment. The value of the additional homestead exemption shall
 133 be reduced by the difference between the just value of the
 134 property and its assessed value. The amendment takes effect on
 135 January 1, 2013, if approved by the voters at the 2012 general
 136 election or if approved at an earlier special election
 137 specifically authorized by law for that purpose, takes effect
 138 upon approval of the voters and operates retroactively to
 139 January 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1291 Additional Homestead Exemption

SPONSOR(S): Brodeur

TIED BILLS: HJR 1289 IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|--------|----------|--|
| 1) Finance & Tax Committee | | Aldridge | Langston  |
| 2) Community & Military Affairs Subcommittee | | | |
| 3) Economic Affairs Committee | | | |

SUMMARY ANALYSIS

The bill implements the amendment to the Florida Constitution proposed by HJR 1289, if approved by the voters. The bill allows individuals who establish a right to receive a homestead exemption under Article VII, section 6(a), of the Florida Constitution, to receive an additional homestead exemption for all non-school property taxes. This exemption is equal to 30 percent of the homestead property's just value in excess of \$75,000 but less than or equal to \$200,000, plus 15 percent of the homestead property's just value in excess of \$200,000 but less than or equal to \$400,000. The value of the additional homestead exemption shall be reduced by the difference between the just value of the property and the assessed value of the property determined under Article VII, section 4(d), of the Florida Constitution.

If the amendment proposed by HJR 1289 is submitted to the voters and approved at a special election authorized by general law, the bill will operate retroactively to January 1, 2012. If that amendment is submitted to and approved by the voters at the 2012 general election, the bill will take effect January 1, 2013.

The bill has no revenue impact. The bill implements the constitutional amendment proposed in HJR 1289, if approved by the voters. That amendment is self-executing with respect to the exemption contained in this bill. The amendment does provide the Legislature the authority, by general law, to adjust the percent of just value or the maximum and minimum levels of just value used to calculate the additional homestead exemption, but the Legislature may not reduce the value of the exemption below the value established in the amendment. This implementing bill does not exercise that authority; therefore this bill has no revenue impact. The revenue impact of this exemption would be realized by voter approval of the amendment and not from this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Just Value

Article VII, section 4 of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. "Just value" is synonymous with "fair market value" and is defined as what a willing buyer would pay a willing seller for the property in an arm's length transaction.¹

Assessed Value

The Florida Constitution authorizes certain alternatives to the just valuation standard for specific types of property.² Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.³ Land used for conservation purposes must be assessed solely on the basis of character or use.⁴ Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or be totally exempted from taxation.⁵ Counties and municipalities may authorize historic properties to be assessed solely on the basis of character or use.⁶ Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents that are 62 years of age or older.⁷ The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.⁸ Certain working waterfront property is assessed based upon the property's current use.⁹

Assessment Limitations

Save Our Homes

The "Save Our Homes" provision in Article VII, section 4 of the Florida Constitution, limits the amount a homestead's assessed value can increase annually to the lesser of 3 percent or the inflation rate as measured by the consumer price index (CPI).¹⁰ Homestead property owners that establish a new homestead may transfer up to \$500,000 of their accrued "Save Our Homes" benefit to a new homestead.¹¹

Additional Assessment Limitations

Article VII, sections 4(g) and (h), of the Florida Constitution, provide an assessment limitation for non-homestead residential real property containing nine or fewer units, and for all real property not subject to other specified assessment limitations. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more

¹ See *Walter v. Shuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); and *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

² The constitutional provisions in section 4, Art. VII, of the Florida Constitution, are implemented in Part II of ch. 193, F.S.

³ Art. VII, section 4(a) of the Florida Constitution.

⁴ Art. VII, section 4(b) of the Florida Constitution.

⁵ Art. VII, section 4(c) of the Florida Constitution.

⁶ Art. VII, section 4(e) of the Florida Constitution.

⁷ Art. VII, section 4(f) of the Florida Constitution.

⁸ Art. VII, section 4(i) of the Florida Constitution.

⁹ Art. VII, section 4(j) of the Florida Constitution.

¹⁰ Art. VII, section 4(d) of the Florida Constitution.

¹¹ Art. VII, section 4(d) of the Florida Constitution.

than 10 percent of the assessment in the prior year. However, residential real property containing nine or fewer units must be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature may provide that such property shall be assessed at just value after a change of ownership or control and must provide for reassessment following a qualifying improvement, as defined by general law.

Exemptions

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

Homestead Exemption

Article VII, section 6 of the Florida Constitution, provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Other Exemptions

Article VII, section 3 of the Florida Constitution, provides for other specific exemptions from property taxes. Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law.¹³ Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons and persons who are totally and permanently disabled.¹⁴ A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.¹⁵ A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.¹⁶ Tangible personal property is exempt up to \$25,000 of its assessed value.¹⁷ There is an exemption for real property dedicated in perpetuity for conservation purposes.¹⁸ There is an exemption for military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.¹⁹

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by Florida Statutes.

Proposed Changes

Additional Homestead Exemption

The bill implements the amendment to the Florida Constitution proposed by HJR 1289, if approved by the voters. The bill allows individuals who establish a right to receive a homestead exemption under Article VII, section 6(a), of the Florida Constitution, to receive an additional homestead exemption for all

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

¹³ Art. VII, section 3(a) of the Florida Constitution.

¹⁴ Art. VII, section 3(b) of the Florida Constitution.

¹⁵ Art. VII, section 3(c) of the Florida Constitution.

¹⁶ Art. VII, section 3(d) of the Florida Constitution.

¹⁷ Art. VII, section 3(e) of the Florida Constitution.

¹⁸ Art. VII, section 3(f) of the Florida Constitution.

¹⁹ Art. VII, section 3(g) of the Florida Constitution.

non-school property taxes. This exemption is equal to 30 percent of the homestead property's just value in excess of \$75,000 but less than or equal to \$200,000, plus 15 percent of the homestead property's just value in excess of \$200,000 but less than or equal to \$400,000. The value of the additional homestead exemption shall be reduced by the difference between the just value of the property and the assessed value of the property determined under Article VII, section 4(d), of the Florida Constitution.

If the amendment proposed by HJR 1289 is submitted to the voters and approved at a special election authorized by general law, the bill will operate retroactively to January 1, 2012. If that amendment is submitted to and approved by the voters at the 2012 general election, the bill will take effect January 1, 2013.

B. SECTION DIRECTORY:

Section 1: Provides an exemption from ad valorem taxation of homestead property.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. The bill has no revenue impact. The bill implements the constitutional amendment proposed in HJR 1289, if approved by the voters. That amendment is self-executing with respect to the exemption contained in this bill. The amendment does provide the Legislature the authority, by general law, to adjust the percent of just value or the maximum and minimum levels of just value used to calculate the additional homestead exemption, but the Legislature may not reduce the value of the exemption below the value established in the amendment. This implementing bill does not exercise that authority; therefore this bill has no revenue impact. The revenue impact of this exemption would be realized by voter approval of the amendment and not from this bill.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the constitutional amendment proposed in HJR 1289 is approved by the voters, homestead owners whose just values are greater than \$75,000 may experience reductions in ad valorem taxes. To the extent that local taxing authorities' budgets are not reduced, the tax burden on other properties will increase to offset these tax losses.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill implements a constitutional amendment to which the mandates provision of Art. VII, section 18 of the Florida Constitution does not apply.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled

An act relating to an additional homestead exemption; amending s. 196.031, F.S.; providing an additional homestead exemption to be calculated in a specified manner for all levies other than school district levies; providing for retroactive application under certain circumstances; providing contingent effective dates.

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

Section 1. Subsection (1) of section 196.031, Florida Statutes, is amended to read:

196.031 Exemption of homesteads.—

(1)(a) Every person who, on January 1, has the legal title or beneficial title in equity to real property in this state and who resides thereon and in good faith makes the same his or her permanent residence, or the permanent residence of another or others legally or naturally dependent upon such person, is entitled to an exemption from all taxation, except for assessments for special benefits, up to the assessed valuation of \$25,000 on the residence and contiguous real property, as defined in s. 6, Art. VII of the State Constitution. Such title may be held by the entireties, jointly, or in common with others, and the exemption may be apportioned among such of the owners as shall reside thereon, as their respective interests shall appear. If only one of the owners of an estate held by the entireties or held jointly with the right of survivorship

29 resides on the property, that owner is allowed an exemption of
 30 up to the assessed valuation of \$25,000 on the residence and
 31 contiguous real property. However, no such exemption of more
 32 than \$25,000 is allowed to any one person or on any one dwelling
 33 house, except that an exemption up to the assessed valuation of
 34 \$25,000 may be allowed on each apartment or mobile home occupied
 35 by a tenant-stockholder or member of a cooperative corporation
 36 and on each condominium parcel occupied by its owner. Except for
 37 owners of an estate held by the entirety or held jointly with
 38 the right of survivorship, the amount of the exemption may not
 39 exceed the proportionate assessed valuation of all owners who
 40 reside on the property. Before such exemption may be granted,
 41 the deed or instrument shall be recorded in the official records
 42 of the county in which the property is located. The property
 43 appraiser may request the applicant to provide additional
 44 ownership documents to establish title.

45 (b) Every person who qualifies to receive the exemption
 46 provided in paragraph (a) is entitled to:

47 1. An additional exemption of up to \$25,000 on the
 48 assessed valuation greater than \$50,000 for all levies other
 49 than school district levies.

50 2. An additional exemption for all levies other than
 51 school district levies in an amount equal to 30 percent of the
 52 homestead property's just value in excess of \$75,000 but less
 53 than or equal to \$200,000, plus 15 percent of the homestead
 54 property's just value in excess of \$200,000 but less than or
 55 equal to \$400,000. The value of the additional homestead
 56 exemption shall be reduced by the difference between the just

HB 1291

2012

57 | value of the property and the assessed value of the property
 58 | determined under s. 196.075.

59 | Section 2. This act shall take effect January 1, 2013, if
 60 | House Joint Resolution 1289, or a similar joint resolution
 61 | having substantially the same specific intent and purpose, is
 62 | approved at the general election to be held in November 2012, or
 63 | if approved at an earlier special election specifically
 64 | authorized by law for that purpose, shall take effect upon
 65 | approval of the electors and operate retroactively to January 1,
 66 | 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1291 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

3
4 **Amendment (with title amendment)**

5 Between lines 58 and 59, insert:

6 Section 3. Effective July 1, 2012, the sum of \$115,056 in
7 nonrecurring funds is appropriated from the General Revenue Fund
8 to the Department of State for purposes of publishing, as
9 required under Section 5(d), Art. XI of the State Constitution,
10 the proposed constitutional amendment contained in House Joint
11 Resolution 1289, or a similar joint resolution having
12 substantially the same specific intent and purpose.

13
14 -----
15 **T I T L E A M E N D M E N T**

16 Between lines 7 and 8, insert:
17 certain circumstances; providing an appropriation; providing
18 contingent effective

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1491 Capital Formation for Infrastructure Projects

SPONSOR(S): Eisnaugle

TIED BILLS: IDEN./SIM. BILLS: SB 1472

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|-----------|-------------------|---------------------------------------|
| 1) Business & Consumer Affairs Subcommittee | 14 Y, 0 N | Tecler | Creamer |
| 2) Finance & Tax Committee | | Wilson <i>WMA</i> | Langston <i>[Signature]</i> |
| 3) Economic Affairs Committee | | | |

SUMMARY ANALYSIS

The bill creates the Florida Infrastructure Fund Partnership ("Partnership"), a contingent tax credit program designed to leverage investment and private funding for state infrastructure projects, which may encourage private sector economic activity. The Partnership is authorized to raise \$700 million in private funds for direct investment in infrastructure projects including water or wastewater systems, communication systems, power systems, transportation systems, renewable energy systems, ancillary or support systems, or other strategic infrastructure needs. Tax credits are available for redemption no earlier than 2024 and will be used only as a guarantee on an investment partner's principal investment. The Florida Opportunity Fund will serve as the general partner of the program. A separate entity, the Florida Infrastructure Investment Trust will administer the tax credit program.

The Revenue Estimating Conference (REC) has not yet determined the impact of this bill. However, in 2011 the REC evaluated a substantially identical bill and estimated a recurring negative indeterminate impact on both state and local government revenues, possibly beginning in 2024, due to contingent tax credits. No more than \$150 million in credits may be utilized in any one state fiscal year.

The bill provides for an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Opportunity Fund

The Florida Opportunity Fund, Inc. ("Fund") was created by the Florida Legislature in 2007 to mobilize and increase venture capital available to Florida businesses. Sections 288.9621 - 288.9625 F.S., collectively referred to as the Florida Capital Formation Act, provided for the authorization of the entity. Initially, the Fund was set up as a "fund-of-funds" program that emphasized investment in seed capital and early stage venture capital funds. However in 2009, the Florida Legislature expanded the Fund's directive under the Florida Capital Formation Act to create direct investment programs that invest in individual businesses and infrastructure projects. The Fund may not use its original appropriation of \$29.5 million to make direct investments but may raise private capital or utilize other public funding sources. In 2010, the Fund launched a direct investment program with the Office of Energy, a state entity within the Department of Agriculture and Consumer Services. The progress of direct investments by the Fund must be included in the Fund's annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The Fund is organized as a private, not-for-profit corporation under ch. 617, F.S., and administered by Enterprise Florida, Inc ("EFI"). EFI selects a five-person appointment committee which selects a board of directors for the Fund. The board then selects a Fund investment manager. Currently, the Fund is managed by Florida First Partners, a joint venture between the Credit Suisse Customized Fund Investment Group ("CFIG") and Florida-based MILCOM Venture Partners ("MVP"). CFIG serves various client types including the states of Indiana and Oregon, endowments, family offices, and high net worth individuals. MVP is a venture capital firm focused on the intersection of the commercial and defense markets. MVP manages two venture capital funds: MILCOM Technologies, a seed-stage investment fund, and OnPointTechnologies, an early-stage venture capital fund.

Infrastructure Funding in Florida

For nearly six decades, Florida has been one of the fastest growing states in the nation, with population expanding from 3 million in 1950 to nearly 19 million in 2010.¹ Demand for energy, transportation, and communication systems expanded rapidly over the past several decades. Current projections suggest Florida may add an additional 5 million new residents by the year 2030.² Employment, tourism, gross state product, and income will expand as well, contributing to growth in demand for strategic infrastructure. In order to meet future capacity over the next 20-25 years, it is estimated that Florida will need:

- \$47.0 billion for highway and rail infrastructure;³
- \$29.9 billion for water and wastewater facilities and infrastructure;⁴
- \$3.5 billion for aviation facilities and infrastructure;⁵
- \$2.8 billion for seaport facilities and infrastructure;⁶ and
- \$2.5 billion for storm water management.⁷

¹ 2010 Census, Apportionment Population and Number of Representatives by State. United States Census Bureau. <http://2010.census.gov/news/press-kits/apportionment/apport.html> (last visited 01/17/2012).

² Florida Census Day Population: 1970-2030, Office of Economic and Demographic Research, August 2010. <http://edr.state.fl.us/Content/population-demographics/data/index.cfm> (last visited 01/17/2012).

³ Strategic Intermodal System Unfunded Needs Plan, Florida Department of Transportation, May 2006. <http://www.dot.state.fl.us/planning/systems/mspi/sisnplan.shtm> (last visited 01/17/2012).

⁴ Clean Watersheds Needs Survey 2008 Report to Congress, United States Environmental Protection Agency. <http://water.epa.gov/scitech/datait/databases/cwns/2008reportdata.cfm> (last visited 01/17/2012).

⁵ Strategic Intermodal System Unfunded Needs Plan, May 2006.

⁶ Strategic Intermodal System Unfunded Needs Plan, May 2006.

⁷ Clean Watersheds Needs Survey 2008 Report to Congress.

Due to the large size and cost, and often monopolistic characteristics of these assets, infrastructure projects have historically been financed, built, owned and operated by state and local governments. Today, public entities solicit grants, borrow capital or issue bonds to pay for public infrastructure projects. However, projected infrastructure funding from all public sources – federal, state, and local – is not sufficient to pay for all needed improvements.

Contingent Tax Credit Programs

Contingent tax credits help to raise money for state-affiliated venture capital initiatives without immediately affecting state revenues. Contingent tax credit programs are statutory state guarantees established to incentivize venture capital investment into state target industries. Seven states, Arkansas, Iowa, Michigan, Ohio, Oklahoma, South Carolina and Utah, have adopted programs authorizing the issuance of contingent tax credits to investors in state-sponsored fund of funds. However, no state has created an infrastructure funding program similar to the one proposed in this bill.

Effect of Proposed Changes

Florida Infrastructure Fund Partnership

The bill creates s. 288.9627, F.S., which authorizes the Fund to facilitate the creation of the Florida Infrastructure Fund Partnership (“Partnership”). The bill provides that the Partnership is organized and operated under ch. 620, F.S., as a private, for-profit, limited partnership or limited liability partnership and is not an instrumentality of the state.

The Fund is authorized to loan no more than \$750,000 to the Partnership for use in paying initial expenses incurred in the organization of the partnership and the solicitation of investment partners (or “partners”). Further, the Fund, as the general partner, is responsible for managing the business affairs of the Partnership, including, but not limited to:

- The engagement of its investment manager(s) to assist with the management of the Partnership;⁸
- Soliciting and negotiating the terms, contracting, and receiving of investment capital; and
- Receiving investment returns, paying investment partners and approving investments.

Infrastructure Investments

The bill authorizes the Partnership to make direct investments in Florida-based infrastructure projects that foster economic development and meet an important infrastructure need of the state. Infrastructure projects eligible for investment include systems and facilities related to water and wastewater, power, transportation, communications, and renewable energy.⁹ Capital for such investments must be raised by the Partnership through “commitment agreements” with investment partners approved by the Fund’s board.¹⁰ The bill provides for the issuance of certificates for future contingent tax credits to guarantee the return of investment capital from the Partnership to the Partnership’s investment partners.¹¹ Contingent tax credits would only be used to guarantee the principal investment to the partners, but not any profit. The bill also requires that the total principal investment payable to the Partnership and the total amount of contingent tax credits to be issued by the Department of Revenue (“Department”) may not exceed \$700 million. However, if the Partnership fails to obtain investment commitments totaling at least \$100 million by December 1, 2013, then the Partnership must cancel all agreements and return investment amounts back to the investment partners. The Partnership must make investments in infrastructure projects based on an evaluation of the following factors:

- The written business plan for the project, including all expected revenue sources;
- The likelihood of the project in attracting operating capital from investors, grants, or other lenders;

⁸ The Fund may only solicit investment managers that have maintained an office in Florida for at least two years.

⁹ The bill defines “infrastructure project” to mean a capital project in the state for a facility or other infrastructure need in the state with respect to any of the following: water or wastewater systems, communication system, power system, transportation system, renewable energy system, ancillary or support system for any of these types of projects, or other strategic infrastructure located within the state.

¹⁰ The bill defines “commitment agreement” to mean a contract between the partnership and an investment partner under which the partner commits to providing a specified amount of investment capital in exchange for an ownership interest in the partnership.

¹¹ The certificates are issued by the Florida Infrastructure Investment Trust, described later in this analysis.

- The management team for the proposed project;
- The project's job creation potential in this state;
- The financial resources of the entity proposing the project;
- The presence of reasonable safeguards to ensure the project provides a continuing benefit for residents of the state; and
- Other factors deemed by the partnership to be relevant to the likelihood of the success of the project.

Limits on Investments

The Partnership may only invest in infrastructure projects:

- That fulfill an infrastructure need in the state;
- That raise equity or debt capital from other sources. The total amount invested in such infrastructure projects must be at least twice the amount invested by the Partnership; and
- Where measures or restrictions are legally in place to ensure that no infrastructure project will be fraudulently closed.

The Partnership may not invest more than 20 percent of its total funds available for investment in any single infrastructure project. The Partnership is also prohibited from investing in any infrastructure project authorized under the Florida Rail Enterprise Act.¹²

In addition, the bill prohibits the Partnership and the Fund from pledging the credit or taxing power of the state or any political subdivision of the state. Obligations of the Partnership and the Fund are not obligations of the state or any political subdivision of the state. Further, the bill forbids the Partnership and the Fund from making its debts payable out of any resources except those of the Partnership or the Fund.

The bill also provides that the Partnership may not accept any investment from or make any investment in any infrastructure project with a financial institution or company identified in s. 215.472, F.S., regarding terrorist nations or any scrutinized company as that term is defined in s. 215.473, F.S., relating to Iran and Sudan.

Florida Infrastructure Investment Trust

The bill also creates s. 288.9628, F.S., to establish the Florida Infrastructure Investment Trust ("Trust"), a state beneficiary public trust, to be governed by an independent board of trustees ("board"). The board is comprised of the Executive Director of the Department of Revenue, the Executive Director of the Department of Economic Opportunity, and the Vice Chair of EFL, or their respective designees. The bill allows an administrative officer to act on behalf of the Trust under the direction of the board. The bill prohibits board members and the administrative officer from receiving compensation and having a financial interest in any investment partner.¹³

The bill authorizes the Trust to engage consultants and retain professional services, issue certificates, sell tax credits, expend funds and invest funds, and contract, bond or insure against loss. Additionally, the Trust and the Fund may seek reimbursements for expenses by charging a fee¹⁴ for the issuance of certificates to investment partners.

The bill authorizes the Trust to issue certificates for redeemable tax credits to partners that make equity investments in the Partnership. A certificate issued to a partner guarantees the availability of tax credits equal to that partner's commitment agreement. Certificates issued by the Trust and related tax credits may not exceed a total aggregate of \$700 million of tax credits. Further, a certificate issued by the trust must have a specific calendar year maturity date designated by the trust of not less than twelve years after the date of issuance. A partner's certificate and related tax credits can be transferred to a new owner in whole or in part.

¹² Sections 341.8201 – 341.842, F.S.

¹³ Members of the board of trustees and the administrative officer are entitled to reimbursement of their expenses.

¹⁴ The fee may be no more than .25 percent of the aggregate investment capital committed to the Partnership.

Notification and Election of Tax Credits

On the maturity date of the certificate, the bill provides that if a partner has a "net capital loss,"¹⁵ the Partnership must provide written notification of this circumstance to the partner. The notification must include:

- An estimate of the fair market value of the Partnership's assets;
- The total capital investment of all partners;
- The total amount of distributions received by the partners; and
- The amount of the tax credit for which the partner is entitled to be issued.

Upon receipt of notice from the Partnership, the bill provides each partner a one-time election to:

- Have the tax credits issued;
- Authorize the Trust to sell the tax credits on behalf of the partner with the proceeds of the sale to be paid by the Trust to the partner; or
- Maintain the investment in the Partnership.

The bill requires the partner to provide written notification to the Partnership and the Trust of its election within 30 days after the partner's receipt of notification from the Partnership. Failing to provide a timely notice will result in the investment partner being deemed to have elected to maintain investment in the Partnership.

Issuance of Tax Credits

In the event that a partner becomes eligible and elects to claim tax credits under the program, the bill provides that the Trust will, on behalf of the partner, apply to the Department for the issuance of tax credits. Tax credits certified by the Department may not exceed the partner's net capital loss. The bill requires the partner to agree in writing to transfer its interest in the Partnership to the Fund before receiving the tax credit.

Sale of Tax Credits

The bill allows the Trust to sell tax credits on behalf of a partner. The bill authorizes the Trust to sell tax credits in an amount no more than the lesser of the maximum amount of tax credits available under the terms of the certificate issued to the partner or the amount necessary to repay a partner's net capital loss. Before receiving the proceeds from the Trust's sale of tax credits, the bill requires the partner to agree in writing to transfer its interest in the Partnership to the Fund.

Application

Within 30 days following receipt of a partner's election or the Trust's sale of the tax credits, the Trust must notify the Partnership and apply to the Department for the issuance of tax credits in the name of the partner or purchaser. The application must include the following: the Partnership's certification of the amount of credits to be issued, the applicable taxpayer, and the tax against which the credits can be applied. Within 30 days of the receipt of an application, the bill requires the Department to issue tax credits to the partner or purchaser of such credits in amount as designated by the trust in the application. Further, if the trust is unable to sell the partner's tax credits within 90 days, the bill provides the partner with the option to modify the election choice.

Tax Offset

As provided in the bill, the amount of tax credits that may be claimed or applied against state taxes may not exceed \$150 million in one state fiscal year. The bill provides that tax credits issued by the Department can be used by their owner as an offset against any state taxes owed to the state under ch. 212, F.S, ch. 220, F.S., or ch. 624, F.S., i.e., sales, corporate, and premium insurance taxes, respectively. The owner must apply the credits as an offset against eligible taxes within seven years after the credits are issued. However, the owner of the tax credit may elect to claim the tax credit as a refund of taxes paid rather than applied as an offset against eligible taxes. Such election must occur within seven years of the date of issuance.

¹⁵ The bill defines "net capital loss" to mean an amount equal to the difference between the total investment capital actually advanced by the investment partner to the partnership and the amount of the aggregate actual distributions received by the investment partner.

Securities Regulation

The bill provides that ch. 517, F.S., dealing with regulation of securities, does not apply to the certificates and credits transferred or sold pursuant to the provisions of the bill.

Reporting Requirements

The bill requires an annual report to be issued by the Partnership concerning the Partnership's activities to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The annual report, at a minimum, must include:

- An accounting of the amount of investment capital raised and disbursed by the Partnership and the progress of the Partnership, including the progress of infrastructure projects that have been provided direct investment by the Partnership.
- A description of the costs and benefits to the state resulting from the Partnership's investments, including a list of infrastructure projects and the costs and benefits of those projects to the state, the number of businesses and associated industries affected; the number, types, and average annual wage of jobs created or retained, and the impact of the program on the state's economy.
- Independently audited financial statements, including statements that show receipts and expenditures during the preceding fiscal year for the operational costs of the Partnership.

The bill requires the Department to provide the Trust with a written assurance that the certificates issued by the Trust will be honored by the Department. Further, the bill allows the Department to provide information relative to tax credits to the Partnership and the Trust.

The bill provides for an effective date of July 1, 2012.

B. SECTION DIRECTORY:

Section 1: Amends s. 288.9621, F.S., revising the short title.

Section 2: Amends s. 288.9622, F.S., relating to the findings and intent of the Legislature.

Section 3: Amends s. 288.9623, F.S., to provide certain definitions.

Section 4: Creates s. 288.9627, F.S., authorizing the creation of the Partnership, and further provides duties and limitations of the Partnership.

Section 5: Creates s. 288.9628, F.S., authorizing the creation of the Trust, and further establishes duties, issuance of certificates and applications for tax credits for the Trust.

Section 6: Creates s. 213.053(8)(cc), F.S., to provide confidentiality and information sharing by the Department.

Section 7: Provides for an effective date of July 1, 2012.

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:

The Partnership has potential for encouraging the funding of state infrastructure projects. If the Partnership invests in successful projects, the economic impact on the private sector will be positive.

D. FISCAL COMMENTS:

The Revenue Estimating Conference (REC) has not yet determined the impact of this bill. However, in 2011 the REC evaluated a substantially identical bill and estimated a recurring negative indeterminate impact on both state and local government revenues, possibly beginning in 2024, due to contingent tax credits. No more than \$150 million in credits may be utilized in any one state fiscal year.

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 revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
2 An act relating to capital formation for
3 infrastructure projects; amending ss. 288.9621,
4 288.9622, and 288.9623, F.S.; conforming a short
5 title, revising legislative findings and intent, and
6 providing definitions for the Florida Capital
7 Formation Act; conforming cross-references; creating
8 s. 288.9627, F.S.; providing for creation of the
9 Florida Infrastructure Fund Partnership; providing the
10 partnership's purpose and duties; providing for
11 management of the partnership by the Florida
12 Opportunity Fund; authorizing the fund to lend moneys
13 to the partnership; requiring the partnership to raise
14 funds from investment partners; providing for
15 commitment agreements with and issuance of
16 certificates to investment partners; authorizing the
17 partnership to invest in certain infrastructure
18 projects; requiring the partnership to submit an
19 annual report to the Governor and Legislature;
20 prohibiting the partnership from pledging the credit
21 or taxing power of the state or its political
22 subdivisions; prohibiting the partnership from
23 investing in projects with or accepting investments
24 from certain companies; creating s. 288.9628, F.S.;
25 creating the Florida Infrastructure Investment Trust;
26 providing for powers and duties, a board of trustees,
27 and an administrative officer of the trust; providing
28 for the trust's issuance of certificates to investment

29 partners; specifying that the certificates guarantee
 30 the availability of tax credits under certain
 31 conditions; authorizing the trust and the fund to
 32 charge fees; limiting the amount of tax credits that
 33 may be claimed or applied against state taxes in any
 34 year; providing for the redemption of certificates or
 35 sale of tax credits; providing for the issuance of the
 36 tax credits by the Department of Revenue; specifying
 37 the taxes against which the credits may be applied;
 38 limiting the period within which tax credits may be
 39 used; providing for the state's obligation for use of
 40 the tax credits; limiting the liability of the fund;
 41 providing for the transferability of certificates and
 42 tax credits; requiring the department to provide a
 43 certain written assurance to the trust under certain
 44 circumstances; specifying that certain provisions
 45 regulating securities transactions do not apply to
 46 certificates and tax credits transferred or sold under
 47 the act; amending s. 213.053, F.S.; authorizing the
 48 department to disclose certain information to the
 49 partnership and the trust relative to certain tax
 50 credits; providing an effective date.

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

53
 54 Section 1. Section 288.9621, Florida Statutes, is amended
 55 to read:

56 288.9621 Short title. This part ~~Sections 288.9621-288.9625~~

57 | may be cited as the "Florida Capital Formation Act."

58 | Section 2. Subsections (1) and (2) of section 288.9622,
59 | Florida Statutes, are amended to read:

60 | 288.9622 Findings and intent.—

61 | (1) The Legislature finds and declares that there is a
62 | need to increase the availability of seed capital and early
63 | stage venture equity capital for emerging companies in the
64 | state, including, without limitation, enterprises in life
65 | sciences, information technology, advanced manufacturing
66 | processes, aviation and aerospace, and homeland security and
67 | defense, as well as other strategic technologies and
68 | infrastructure funding.

69 | (2) It is the intent of the Legislature that this part ~~ss.~~
70 | ~~288.9621-288.9625~~ serve to mobilize private investment in a
71 | broad variety of venture capital partnerships in diversified
72 | industries and geographies; retain private sector investment
73 | criteria focused on rate of return; use the services of highly
74 | qualified managers in the venture capital industry regardless of
75 | location; facilitate the organization of the Florida Opportunity
76 | Fund as an investor in seed and early stage businesses,
77 | infrastructure projects, venture capital funds, infrastructure
78 | funds, and angel funds; and precipitate capital investment and
79 | extensions of credit to and in the Florida Opportunity Fund.

80 | Section 3. Section 288.9623, Florida Statutes, is amended
81 | to read:

82 | 288.9623 Definitions.—As used in this part, the term ~~ss.~~
83 | ~~288.9621-288.9625~~:

84 | (1) "Board" means the board of directors of the Florida

85 Opportunity Fund.

86 (2) "Certificate" means a contract between the trust and
 87 an investment partner that guarantees the availability of tax
 88 credits for use by the partner, or for transfer or sale under s.
 89 288.9628, in order to guarantee the partner's investment capital
 90 in the partnership.

91 (3) "Commitment agreement" means a contract between the
 92 partnership and an investment partner under which the partner
 93 commits to providing a specified amount of investment capital in
 94 exchange for an ownership interest in the partnership.

95 (4)~~(2)~~ "Fund" means the Florida Opportunity Fund.

96 (5) "Infrastructure project" means a capital project in
 97 the state for a facility or other infrastructure need in the
 98 state with respect to any of the following: water or wastewater
 99 system, communication system, power system, transportation
 100 system, renewable energy system, ancillary or support system for
 101 any of these types of projects, or other strategic
 102 infrastructure located within the state.

103 (6) "Investment capital" means the total capital committed
 104 by the investment partner for an equity interest in the
 105 partnership pursuant to a commitment agreement.

106 (7) "Investment partner" or "partner" means a person,
 107 other than the partnership, the fund, or the trust, who
 108 purchases an ownership interest in the partnership or a
 109 transferee of such interest.

110 (8) "Net capital loss" means an amount equal to the
 111 difference between the total investment capital actually
 112 advanced by the investment partner to the partnership and the

113 amount of the aggregate actual distributions received by the
 114 investment partner.

115 (9) "Partnership" means the Florida Infrastructure Fund
 116 Partnership.

117 (10) "Tax credits" means credits issued against the taxes
 118 specified in s. 288.9628(7)(c).

119 (11) "Trust" means the Florida Infrastructure Investment
 120 Trust.

121 Section 4. Section 288.9627, Florida Statutes, is created
 122 to read:

123 288.9627 Florida Infrastructure Fund Partnership;
 124 creation; duties.-

125 (1) The Florida Opportunity Fund shall facilitate the
 126 creation of the Florida Infrastructure Fund Partnership, which
 127 shall be organized and operated under chapter 620 as a private,
 128 for-profit limited partnership or limited liability partnership
 129 with the fund as a general partner. The partnership shall manage
 130 its business affairs and conduct business consistent with its
 131 organizing documents and the purposes described in this section.
 132 However, the partnership is not an instrumentality of the state.

133 (2) The primary purpose of the partnership is to raise
 134 investment capital and invest the capital in infrastructure
 135 projects in the state that promote economic development.

136 (3)(a) The fund, as the general partner of the
 137 partnership, shall manage the partnership's business affairs,
 138 including, but not limited to:

139 1. Hiring one or more investment managers to assist with
 140 management of the partnership through a solicitation for

141 qualified investment managers for the raising and investing of
 142 capital by the partnership. Any such investment manager must
 143 have maintained an office in the state for at least 2 years
 144 before such solicitation with a full-time investment
 145 professional. The evaluation of an investment manager candidate
 146 must address the investment manager's level of experience,
 147 quality of management, investment philosophy and process,
 148 demonstrable success in fundraising, and prior investment
 149 results.

150 2. Soliciting and negotiating the terms of, contracting
 151 for, and receiving investment capital with the assistance of the
 152 investment managers or other service providers.

153 3. Receiving investment returns.

154 4. Disbursing returns to investment partners.

155 5. Approving investments.

156 6. Engaging in other activities necessary to operate the
 157 partnership.

158 (b) The fund may lend up to \$750,000 to the partnership to
 159 pay the initial expenses of organizing the partnership and
 160 soliciting investment partners.

161 (4) (a) The partnership shall raise funds from investment
 162 partners for investment in infrastructure projects in the state
 163 by entering into commitment agreements with such partners on
 164 terms approved by the fund's board.

165 (b) The Florida Infrastructure Investment Trust shall,
 166 pursuant to s. 288.9628, concurrently with the execution of a
 167 commitment agreement with an investment partner, issue a
 168 certificate.

169 (c) The partnership shall provide a copy of each
 170 commitment agreement to the trust upon execution of the
 171 agreement by all parties.

172 (d) The partnership may enter into commitment agreements
 173 with investment partners beginning July 1, 2012. The total
 174 principal investment capital payable to the partnership under
 175 all commitment agreements may not exceed the total aggregate
 176 amount of \$700 million. However, if the partnership does not
 177 obtain commitment agreements totaling at least \$100 million by
 178 December 1, 2013, the partnership must cancel any executed
 179 agreement and return the investment capital of each investment
 180 partner who executed an agreement.

181 (5) (a) The partnership may only invest in an
 182 infrastructure project:

183 1. That fulfills an important infrastructure need in the
 184 state.

185 2. That raises funding from other sources so that the
 186 total amount invested in the project is at least twice the
 187 amount invested by the partnership, inclusive of the
 188 partnership's investment.

189 3. For which legal measures exist, appropriate to the
 190 individual project, to ensure that the project is not
 191 fraudulently closed to the detriment of the residents of the
 192 state.

193 (b) The partnership may not invest more than 20 percent of
 194 its total available investment capital in any single
 195 infrastructure project.

196 (c) The partnership may not invest in any infrastructure

197 project that involves any phase of a project authorized under
 198 the Florida Rail Enterprise Act, ss. 341.8201-341.842.

199 (6) The partnership may only invest in an infrastructure
 200 project based on an evaluation of the following:

201 (a) A written business plan for the project, including all
 202 expected revenue sources.

203 (b) The likelihood of the project's attracting operating
 204 capital from investment partners, grants, or other lenders.

205 (c) The management team for the proposed project.

206 (d) The project's potential for job creation in the state.

207 (e) The financial resources of the entity proposing the
 208 project.

209 (f) The partnership's assessment that the project
 210 reasonably provides a continuing benefit for residents of the
 211 state.

212 (g) Other factors not inconsistent with this section that
 213 are deemed by the partnership as relevant to the likelihood of
 214 the project's success.

215 (7) By December 1 of each year beginning in 2012, the
 216 partnership shall submit an annual report of its activities to
 217 the Governor, the President of the Senate, and the Speaker of
 218 the House of Representatives. The annual report must include, at
 219 a minimum:

220 (a) An accounting of the amounts of investment capital
 221 raised and disbursed by the partnership and the progress of the
 222 partnership, including the progress of each infrastructure
 223 project in which the partnership has invested.

224 (b) A description of the costs and benefits to the state

225 that result from the partnership's investments, including a list
 226 of infrastructure projects; the costs and benefits of those
 227 projects to the state and, if applicable, the county or
 228 municipality; the number of businesses and associated industries
 229 affected; the number, types, and average annual wages of the
 230 jobs created or retained; and the impact on the state's economy.

231 (c) Independently audited financial statements, including
 232 statements that show receipts and expenditures during the
 233 preceding fiscal year for the operational costs of the
 234 partnership.

235 (8) The partnership may not pledge the credit or taxing
 236 power of the state or any political subdivision thereof and may
 237 not make its debts payable from any moneys or resources except
 238 those of the partnership. An obligation of the partnership is
 239 not an obligation of the state or any political subdivision
 240 thereof but is an obligation of the partnership, payable
 241 exclusively from the partnership's resources.

242 (9) The partnership may not invest in an infrastructure
 243 project with, or accept investment capital from, a company
 244 described in s. 215.472 or a scrutinized company as defined in
 245 s. 215.473, and the entity owning an infrastructure project in
 246 which the partnership has invested must provide reasonable
 247 assurances to the partnership that the entity will not provide
 248 such a company or scrutinized company with an ownership interest
 249 in the infrastructure project.

250 Section 5. Section 288.9628, Florida Statutes, is created
 251 to read:

252 288.9628 Florida Infrastructure Investment Trust;
 253 creation; duties; issuance of certificates; applications for tax
 254 credits.—

255 (1) (a) There is created the Florida Infrastructure
 256 Investment Trust, which shall be organized as a state
 257 beneficiary public trust to be administered by a board of
 258 trustees. The powers and duties of the board of trustees under
 259 this section are deemed to be performed for essential public
 260 purposes.

261 (b) The board of trustees shall consist of the executive
 262 director of the Department of Revenue, the executive director of
 263 the Department of Economic Opportunity, and the vice chair of
 264 Enterprise Florida, Inc., or their designees. The board of
 265 trustees shall appoint an administrative officer who may act on
 266 behalf of the trust under the direction of the board of
 267 trustees.

268 (c) Members of the board of trustees and the board's
 269 administrative officer shall serve without compensation but are
 270 entitled to reimbursement of their expenses. Each member of the
 271 board of trustees has a duty of care to the trust in his or her
 272 capacity as a trustee. Neither a member nor the administrative
 273 officer may have a financial interest in any investment partner.

274 (2) The trust may hire consultants, retain professional
 275 services, issue certificates, sell tax credits in accordance
 276 with paragraph (5) (b), expend funds, invest funds, contract,
 277 bond or insure against loss, or perform any other act necessary
 278 to administer this section.

279 (3) (a) The trust shall, pursuant to s. 288.9627 and this
 280 section, issue certificates to investment partners in the
 281 Florida Infrastructure Fund Partnership, or their assignees,
 282 guaranteeing the availability of tax credits of a maximum amount
 283 equal to the investment capital committed by such investment
 284 partners to the partnership.

285 (b) The trust and the fund may each seek reimbursement of
 286 their respective reasonable costs and expenses from the
 287 partnership by charging a fee for the issuance of certificates
 288 to investment partners of up to 0.25 percent of the aggregate
 289 investment capital committed to the partnership by the
 290 investment partners who are issued certificates.

291 (c) The total aggregate amount of all tax credits made
 292 available under the terms of certificates issued by the trust
 293 may not exceed \$700 million, and each certificate must include
 294 the maximum amount of the tax credits that may be issued under
 295 such certificate, which shall be the total amount of investment
 296 capital committed to the partnership by the investment partner.

297 (d) A certificate shall be issued concurrently with a
 298 commitment agreement between the investment partner and the
 299 partnership. A certificate issued by the trust must include a
 300 specific calendar year maturity date designated by the trust of
 301 at least 12 years after issuance. Contingent tax credits may not
 302 be claimed or redeemed except by an investment partner or
 303 purchaser in accordance with this section and the terms of a
 304 certificate issued by the trust.

305 (e) Once investment capital is committed to the
 306 partnership by an investment partner pursuant to his or her

307 commitment agreement, the certificate is binding, and the
 308 partnership, the trust, and the Department of Revenue may not
 309 modify, terminate, or rescind the certificate, except for
 310 administrative items, including the assignment or sale of tax
 311 credits guaranteed to be available under the terms of a
 312 certificate.

313 (4) (a) The partnership shall provide written notice to
 314 each investment partner if, on the maturity date of his or her
 315 certificate, the partner has a net capital loss. The notice must
 316 include, at a minimum:

317 1. A good faith estimate of the fair market value of the
 318 partnership's assets as of the date of the notice.

319 2. The total investment capital of all investment partners
 320 as of the date of the notice.

321 3. The total amount of distributions received by the
 322 investment partners.

323 4. The amount of the tax credits the investment partner is
 324 entitled to be issued by the Department of Revenue.

325 (b) The partnership shall concurrently provide a copy of
 326 each investment partner's notice to the trust.

327 (c) Upon receipt of the notice from the partnership, each
 328 affected investment partner may make a one-time election to:

329 1. Have tax credits issued to the investment partner;

330 2. Have the trust sell, on the partner's behalf, the tax
 331 credits guaranteed to be available under the terms of the
 332 partner's certificate with the proceeds of the sale to be paid
 333 to the partner by the trust; or

334 | 3. Maintain the investment partner's investment in the
 335 | partnership.

336 | (d) Except as provided in paragraph (6)(c), the election
 337 | made by an investment partner under paragraph (c) is final and
 338 | may not be revoked or modified.

339 | (e) An investment partner must provide written notice to
 340 | the partnership and the trust of his or her election within 30
 341 | days after his or her receipt of the notice from the
 342 | partnership. If an investment partner fails to provide notice
 343 | within 30 days, the investment partner is deemed to have elected
 344 | to maintain his or her investment in the partnership under
 345 | subparagraph (c)3.

346 | (5) (a) If an investment partner makes the election under
 347 | subparagraph (4)(c)1. to have tax credits issued to him or her,
 348 | the trust shall apply to the Department of Revenue on the
 349 | partner's behalf for issuance of the tax credits in his or her
 350 | name in an amount equal to such partner's net capital loss. In
 351 | order to receive the tax credits, the investment partner must
 352 | agree in writing to transfer his or her ownership interest in
 353 | the partnership to the fund.

354 | (b) If an investment partner makes the election under
 355 | subparagraph (4)(c)2., the trust shall exercise its best efforts
 356 | to sell the tax credits. In order to receive the proceeds from
 357 | the trust's sale of the tax credits, the investment partner must
 358 | agree in writing to transfer his or her ownership interest in
 359 | the partnership to the fund. A purchaser's payment for tax
 360 | credits must be made to the trust on behalf of the investment
 361 | partner or, upon the partner's request, directly to the

362 investment partner. The trust may sell tax credits in an amount
 363 not to exceed the lesser of:

364 1. The maximum amount of the tax credits available under
 365 the terms of certificate issued to the investment partner; or

366 2. The amount of tax credits necessary to yield net
 367 proceeds to the investment partner equal to his or her net
 368 capital loss as of the date of the partnership's notice.

369 (6) (a) Within 30 days after receipt of an investment
 370 partner's election to be issued tax credits under paragraph
 371 (5) (a), or within 30 days after the sale of tax credits under
 372 paragraph (5) (b), the trust shall apply to the Department of
 373 Revenue for issuance of the tax credits on behalf of the partner
 374 or on behalf of the purchaser of the tax credits, as applicable.
 375 However, the trust's failure to timely submit an application to
 376 the Department of Revenue does not affect the investment
 377 partner's or purchaser's eligibility for the tax credits.

378 (b) The trust's application for tax credits must include
 379 the partnership's certification of the amount of tax credits to
 380 be issued, the identity of the taxpayer to whom the tax credits
 381 are to be issued, and the tax against which the credits shall be
 382 applied. The Department of Revenue shall issue the tax credits
 383 within 30 days after receipt of a timely and complete
 384 application.

385 (c) The trust shall provide the investment partner with
 386 written notice if, within 90 days after the partner's election,
 387 the trust is unable to sell enough tax credits to yield net
 388 proceeds to the investment partner equal to his or her net
 389 capital loss as of the date of the partnership's notice and tax

390 credits available under the terms of the partner's certificate
 391 remain unsold. Within 30 days after receipt of such notice, the
 392 investment partner may:

393 1. Revoke his or her prior election and make a new
 394 election under paragraph (4)(c); or

395 2. Modify the election and:

396 a. Have unsold tax credits issued to him or her, to the
 397 extent that unsold tax credits are available, in an amount equal
 398 to the partner's net capital loss, less the proceeds of any sold
 399 credits; or

400 b. Have the trust continue to sell tax credits until the
 401 partner's net capital loss is satisfied or the maximum amount of
 402 tax credits available under the partner's certificate is
 403 reached, whichever occurs first.

404
 405 Within 30 days after such modified election, the trust shall
 406 apply to the Department of Revenue in accordance with paragraph
 407 (a) for issuance of tax credits on behalf of the investment
 408 partner and on behalf of the purchasers in the amount of their
 409 purchased credits.

410 (7)(a) The Department of Revenue may not issue more than
 411 \$700 million in tax credits. The trust may not approve tax
 412 credits in excess of the total capital committed through
 413 commitment agreements.

414 (b) The amount of tax credits that may be claimed by the
 415 owner of the credits, or applied against state taxes, in any one
 416 state fiscal year may not exceed an amount equal to \$150 million
 417 multiplied by a fraction the numerator of which is the amount of

418 credits that the Department of Revenue issued to such owner and
 419 the denominator of which is the amount of all credits that the
 420 Department of Revenue issued to all tax credit owners.

421 (c) Tax credits issued by the Department of Revenue under
 422 this section may be used by the owner of the credits as an
 423 offset against any state taxes owed to the state under chapter
 424 212, chapter 220, or ss. 624.509 and 624.5091. The offset may be
 425 applied by the owner on any return for an eligible tax due on or
 426 after the date that the credits are issued by the Department of
 427 Revenue but within 7 years after the credits are issued. The
 428 owner of the tax credits may elect to have the amount authorized
 429 in the credits, or any portion thereof, claimed as a refund of
 430 taxes paid rather than applied as an offset against eligible
 431 taxes if such election is made within 7 years after the credits
 432 are issued.

433 (d) To the extent that tax credits issued under this
 434 section are used by their owner either as credits against taxes
 435 due or to obtain payment from the state, the amount of such
 436 credits becomes an obligation to the state by the partnership,
 437 secured exclusively by the ownership interest transferred to the
 438 fund by the investment partner whose investment generated the
 439 tax credits. In such case, the state's recovery is limited to
 440 such forfeited ownership interest. The Department of Revenue
 441 shall account for tax credits used under this section and make
 442 such information available to the partnership. The fund, as
 443 general partner, is not liable to the state for repayment of the
 444 used tax credits.

445 (e) Any certificate and related tax credits issued under
 446 this section are transferable in whole or in part by their
 447 owner. An owner of a certificate or tax credits must notify the
 448 trust and the Department of Revenue of any such transfer.

449 (8) The Department of Revenue, upon the request of the
 450 trust, shall provide the trust with a written assurance that the
 451 certificates issued by the trust will be honored by the
 452 Department of Revenue as provided in this section.

453 (9) Chapter 517 does not apply to the certificates and tax
 454 credits transferred or sold under this section.

455 Section 6. Paragraph (cc) is added to subsection (8) of
 456 section 213.053, Florida Statutes, to read:

457 213.053 Confidentiality and information sharing.—

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

460 (cc) Information relative to tax credits under ss.
 461 288.9627 and 288.9628 to the Florida Infrastructure Fund
 462 Partnership and the Florida Infrastructure Investment Trust.

463
 464 Disclosure of information under this subsection shall be
 465 pursuant to a written agreement between the executive director
 466 and the agency. Such agencies, governmental or nongovernmental,
 467 shall be bound by the same requirements of confidentiality as
 468 the Department of Revenue. Breach of confidentiality is a
 469 misdemeanor of the first degree, punishable as provided by s.
 470 775.082 or s. 775.083.

471 Section 7. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FTC 12-01 Property Tax Oversight

SPONSOR(S): Finance & Tax Committee

TIED BILLS: IDEN./SIM. **BILLS:** SPB 7036

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--------------------------------------|--------|-------------------|--|
| Orig. Comm.: Finance & Tax Committee | | Aldridge <i>A</i> | Langston <i>DL</i> |

SUMMARY ANALYSIS

The proposed bill contains recommendations by the Department of Revenue for property tax oversight improvements. Among other things, the bill clarifies ambiguous language, deletes obsolete statutory provisions, and eliminates unneeded reporting requirements in the property tax statutes. The bill also:

- Amends statutory requirements for scheduling value adjustment board hearings.
- Allows certain disabled veterans and other disabled persons to apply for property tax exemptions before they have received required documentation from certain agencies of the federal government.
- Amends the current order that property tax exemptions are to be applied to require that the exemptions be applied in a manner that results in the lowest taxable value.
- Requires the property appraiser to mail an additional form along with the TRIM notice, upon request of the governing body of the county that informs taxpayers of the portion of the proposed nonvoted county millage rate which is attributable to each constitutional officer and the county commission.
- Amends s. 196.199(1), F.S., to provide that all property of the state and its political subdivisions and municipalities of this state, when used in conjunction with, or as an essential ancillary function of, an exempt or immune Federal, State or County facility, or property, shall be exempt from ad valorem taxation.

Additionally, current law provides that the assessed value of certain nonhomestead property cannot increase by more than 10 percent over the prior year. The law requires such property to be assessed at just value [fair market value] when the property is "placed on the tax roll." The bill clarifies that property is to be assessed at just value when it is subject to a new assessment limitation. The bill also amends these provisions to provide that parcels combined or divided are not to be included as such on the tax notice until the following January 1 on which it is first assessed as a combined or divided parcel. The bill further provides that increases in value due to dividing property are apportioned to each parcel pro rata based on just value, and increases in value of property when properties are combined are attributable to the combination.

Except for the provisions relating to certain exemption of government-owned property, which staff estimates will have a negative, but unknown local revenue impact, the Revenue Estimating Conference estimated that the bill will have no impact on state revenue and will have a negative recurring impact on local revenue of \$0.6 million, beginning in FY 2012-13.

The bill takes effect upon becoming law, except as otherwise provided in the bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Locally elected officials administer Florida's property tax system. The Department of Revenue (Department) is responsible for general supervision of the assessment and valuation of property, tax collection and all other aspects of the administration of property taxes.¹ In this role, the Department from time to time identifies statutory provisions that appear to contain drafting errors, inconsistencies, or inefficiencies. Most of the statutory changes in the bill were suggested by the Department and approved by the Governor and Cabinet, to address these types of issues.

Definitions

Current Situation

Section 192.001, F.S., defines terms used in the statutes imposing ad valorem taxes. Some of these definitions have not been amended to conform to other statutory and constitutional changes.

Proposed Changes

This bill amends the definition of "assessed value of property" to make it consistent with Article VII of the Florida Constitution, as amended in 2008. It also amends the definition of "complete submission of the rolls" to conform to s. 193.114, F.S., as amended in 2008.

Value Adjustment Board Hearing Wait Time Limit

Current Situation

Taxpayers have the right to petition the value adjustment board (VAB) over objections to their property tax assessments, denial of homestead or other property tax exemptions, and appeals concerning property tax deferrals and classifications.² Section 194.032, F.S., outlines the timetable and procedure for VAB hearings. Taxpayers previously were required to exhaust their administrative remedies prior to filing an action in circuit court related to these matters.³ There is a vestige of this prior requirement in s. 194.032, F.S., whereby taxpayers who had waited 4 hours after the scheduled hearing time would be deemed to have exhausted their administrative remedies and thereby be permitted to file an action in circuit court.

Proposed Change

The bill amends the VAB hearing procedure in s. 194.032, F.S., and limits the amount of time a petitioner may be required to wait for his or her hearing after the scheduled time to "a reasonable time, not to exceed 2 hours." If the hearing is not commenced within this time, the petitioner may leave and the clerk shall reschedule the hearing, though this rescheduled hearing is not counted against the

¹ Section 194.011, F.S.

² Sections 194.011 and 194.032, F.S.

³ See *Stiles v. Brown*, 177 So.2d 672 (Fla.App.1965), affirmed 182 So.2d 612 (Fla. 1966) finding that appearance before the Board of Equalization [predecessor of the current VABs] was a necessary "exhaustion of administrative remedies" and a prerequisite to filing a lawsuit. See also Chapter 80-274, L.O.F., which added language now contained in s. 194.034(1)(b), F.S., which legislatively eliminated that prerequisite:

(b) Nothing herein shall preclude an aggrieved taxpayer from contesting his or her assessment in the manner provided by s. 194.171, whether or not he or she has initiated an action pursuant to s. 194.011.

taxpayer's one-time right to reschedule a hearing for any reason.⁴ The bill also amends the Taxpayer's Bill of Rights in s. 192.0105(2)(d), F.S., to conform to the amendments in s. 194.032, F.S., described here.

Repeal of the Property Tax Administration Task Force

Current Situation

The Property Tax Administration Task Force was created in s. 192.117, F.S., in 2001 for the purpose of serving as a forum for bringing issues in property tax administration to the Department, of providing and evaluating suggestions for improving the property tax administration process, and of promoting greater understanding of property tax administration issues. Under s. 20.03(8), F.S., a task force created by statute can exist for a maximum of three years. Accordingly, this task force was dissolved in 2004, rendering s. 192.117, F.S., obsolete.

Proposed Change

The bill repeals s. 192.117, F.S.

Real Property Assessment Roll Components

Current Situation

Section 193.114(2), F.S., provides a list of items that must be included on the real property assessment roll prepared by the property appraiser. Among these items, paragraph (n) requires the sale price, sale date, and basis for qualification or disqualification for an arms-length transaction for each sale of the property in the previous year to be included on the roll. Paragraph (p), requires the name and address of the owner or fiduciary responsible for the payment of taxes on the property.

Proposed Change

The bill amends s. 193.114(2)(n), F.S., to replace the term "sale price" with "recorded selling price," clarifying that the price submitted must be the amount indicated by the documentary stamps posted on the transfer document. "Sale date" is replaced with "ownership transfer date" to clarify that all real property transfers recorded or otherwise discovered during the period beginning 1 year before the assessment date, and up to the date the roll is submitted to the department, must be included on the roll. "Ownership transfer date" is defined as the date that the deed or other transfer instrument is signed and notarized or otherwise executed.

The bill also amends s. 193.114(2)(p), F.S., to delete the requirement that the assessment roll contain the name and address of a fiduciary responsible for payment of property taxes.

Assessment of Nonhomestead Residential Property; Assessment of Certain Residential and Nonresidential Real Property

Current Situation

Article VII, sections 4(g) and (h) of the Florida Constitution, provide, among other things, that the assessed value of certain nonhomestead property cannot increase more than 10 percent over the prior year. These provisions are implemented in ss. 193.1554 and 193.1555, F.S. Both sections require property to be assessed at just value [fair market value] when the property is "placed on the tax roll." The Department has interpreted this language to apply to situations where property that was already on

⁴ Taxpayers may reschedule their VAB hearing one time for any reason. See section 194.032(2), F.S.

the roll changes classifications, such as from homestead to nonhomestead, although this interpretation is currently being litigated.⁵

Sections 193.1554 and 193.1555, F.S., also govern how such property is assessed when parcels are merged or split. However, they do not specify how an increase in the just value from combining or dividing the parcels should be calculated and apportioned.

Proposed Change

The bill amends ss. 193.1554, F.S., and 193.1555, F.S., to clarify that property is to be assessed at just value when it is subject to a new limitation. The bill also amends these provisions to provide that parcels combined or divided in this section shall not be included as such on the tax notice until the following January 1 on which it is first assessed as a combined or divided parcel. These sections further provide that increases in value due to dividing property are apportioned to each parcel pro rata based on just value, and increases in value of property when properties are combined are attributable to the combination.

Reporting for Certain Tax Liabilities by Tax Collectors

Current Situation

Sections 193.501, 193.503, and 193.505, F.S., provide reduced assessments for lands subject to a conservation easement or other development limitation, historic property used for commercial or certain nonprofit purposes, or historically significant property when development rights have been conveyed or historic preservation restrictions have been covenanted, respectively.⁶ These provisions require repayment of the amount of reduced liability if the qualifying use is not maintained for the required period. Tax collectors must annually report to the Department the amount of repayments made under these sections.

Proposed Change

These provisions are amended removing the reporting requirement.

Notification of Value Adjustment Board's Decision

Current Situation

Section 194.034(2), F.S., provides that when a petitioner challenges a property assessment through the VAB, and the VAB is required to render a written decision, the clerk is required to mail a notification of the decision to various parties, including the Department.

Proposed Change

The bill amends s. 194.034(2), F.S., by removing the clerk's duty to notify the Department of every decision of the board. In place of that requirement, the bill provides that the clerk shall provide a copy of the decision (or information relating to the tax impact of the findings and results as provided in s.194.037, F.S.) to the Department upon the Department's request.

⁵ In December 2010, in *Sommers v. Orange Cnty. Prop. Appraiser*, No. 2010-CA-012489-O (Fla. 9th Cir. Ct. 2010), *pending appeal*, the Ninth Judicial Circuit Court ruled that the Sommers were entitled to the 10 percent assessment limitation on their previously homesteaded property without first reassessing the home to its full market value. The court based its ruling on constitutional language implemented in section 193.1554(3), F.S. This ruling is being appealed. See Case No. 5D11-240 (Fla. 5th DCA).

⁶ Constitutional authority provided in Art. VII, ss. 3(f) and 4(b).

Department's Review of Assessment Rolls

Current Situation

The Department is required to conduct an in-depth review of the 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.⁷ Statistical sampling used in the review of assessment rolls must meet a 95 percent confidence level. However, in some instances, there is insufficient data to meet the 95 percent confidence level standard.

Section 195.0985, F.S., requires the Department to annually publish sales ratio studies for counties after approving the tax roll assessments in those counties.

Proposed Change

The bill amends s. 195.096(2), F.S., allowing the Department to use ratio study standards that are generally accepted by professional appraisal organizations in lieu of the 95 percent confidence level requirement, when a 95 percent level of confidence is not attainable. Instead of being required to forward the findings to the Senate and the House of Representatives committees with oversight responsibilities, the bill directs the Department to publish its findings and notify the legislative staff and county officials that such publication has occurred. Copies of the data and findings will be provided upon request.

This bill also repeals s. 195.0985, F.S., eliminating a redundant requirement.

Department's Review of Assessments for Certain Businesses

Current Situation

Section 195.099, F.S., requires the Department to periodically review the assessments of new, rebuilt, and expanded businesses in designated enterprise zones⁸ or brownfield areas.⁹

Proposed Change

The bill amends this provision to remove the Department's mandatory review requirement and, instead, permits the Department to review these assessments.

Tax Exemption of Homesteads

Current Situation

Section 196.031(7), F.S., specifies the order in which various exemptions are applied to homestead property that is not totally exempt from ad valorem taxation. Under current law, the order of exemptions could result in some properties not being able to take full advantage of all the exemptions.

Proposed Change

The bill amends s. 196.031(7), F.S., to require that the exemptions in this section be applied in a manner that results in the lowest taxable value.

⁷ Section 195.096(2), F.S.

⁸ Section 193.077(3), F.S.

⁹ Section 196.1995, F.S.

Delay in Disability Exemption

Current Situation

Sections 196.081, 196.082, 196.091, 196.101, 196.202, and 196.24, F.S., provide property tax discounts and exemptions for disabled veterans, other disabled persons, widows, widowers, blind persons, persons permanently and totally disabled, and disabled servicemembers or surviving spouses under certain conditions. To qualify for these discounts and exemptions, a taxpayer must first provide evidence of the disability by obtaining certification of the disability from specified sources, depending upon the specific discount or exemption, such as the United States government, the United States Department of Veterans Affairs or its predecessor, or the Social Security Administration; the taxpayer may not receive a discount or exemption until the letter is obtained. In some instances, taxpayers have lost the ability to claim discounts and exemptions because the receipt of the documentation was delayed.

Proposed Change

The bill amends these sections to allow a taxpayer to apply for the discount or exemption, with approval contingent upon the taxpayer receiving the necessary documentation. Once the documentation is received by the property appraiser, the exemption is granted back to the date of the original application and a refund of excess tax payments is made. The refund is only permitted for years that are within the normal 4 year statute of limitations for property tax refunds.

Printed Forms for Tax Exemptions

Current Situation

Section 196.121(1), F.S., requires the Department to furnish hard-copy, printed forms to the property appraiser of each county for taxpayers to use when claiming a homestead exemption.

Proposed Change

This bill amends s. 196.121(1), F.S., by removing the requirement that the Department provide printed forms; in its place, the bill provides that the Department shall provide the forms by electronic means or other methods designated by the Department.

Government Property Exemptions from Tax

Current Situation

Section 196.199, F.S., contains the statutory provisions related to exemption from property tax of certain government owned property.

Proposed Change

The bill adds language to s. 196.199(1), F.S., that provides that all property of the state and its political subdivisions and municipalities of this state, when used in conjunction with, or as an essential ancillary function of, an exempt or immune Federal, State or County facility, or property, shall be exempt from ad valorem taxation.

Method for Fixing Millage; Notice of Intent to Levy Additional Taxes

Current Situation

Section 200.065, F.S., provides the method for fixing the maximum millage rate that local governments can levy. To determine this maximum rate, the section refers to prior year's rate and sets the cap at the rate that would have been levied in the prior year if the maximum millage rate had been applied, *unless*

*a higher rate is adopted.*¹⁰ In an apparent drafting error, the phrase “is adopted” was used instead of “was adopted” in referring to that millage rate, causing uncertainty in the phrase’s meaning.

Additionally, this section requires a district school board to publish notice of intent to levy additional taxes under s. 1011.71(2), F.S. Since 2008,¹¹ district school boards have also been able to levy additional taxes pursuant to s. 1011.71(3), F.S. However, the notice requirements in s. 200.065(10), F.S., do not reference those levies.

Proposed Change

The bill amends s. 200.065(5), F.S., by replacing “is adopted” with “was adopted.” The bill also amends the notice requirement in s. 200.065(10), F.S., to require the district school board to publish a notice of intent to levy additional taxes under s. 1011.71(3), F.S.

Notice of Proposed Property Taxes

Current Situation

Section 200.069, F.S., provides the statutory provisions related to The Notice of Proposed Property Taxes, also known as the TRIM notice, which enables taxpayers to compare the prior year assessed value and taxes with the present year assessed value and proposed taxes for the upcoming year. The TRIM notice lists the date, time, and location of all budget hearings at which the taxing authorities will hear from the public. The notice also shows the deadline for filing a petition to protest the assessment. Taxing authorities establish the millage to be levied against a parcel of land shown on the TRIM notice at budget hearings.

Proposed Change

The bill amends s. 200.069, F.S., to require the property appraiser to mail an additional form along with the TRIM notice, upon request of the governing body of the county. Any costs related to this form shall be borne by the county. The form may include information regarding the proposed budget for the county, inform taxpayers of the portion of the proposed nonvoted county millage rate which is attributable to each constitutional officer and the county commission, and include:

- The dollar value of proposed nonvoted property tax funding for each constitutional officer and the county commission;
- The percent of the total nonvoted property tax revenues designated for each constitutional officer and the county commission in the proposed budget; and
- The proposed nonvoted millage rate for each constitutional officer and the county commission, calculated by multiplying the percent of the total nonvoted property tax revenues designated for each entity by the county’s proposed nonvoted millage rate.

Fiscally Constrained County Distribution

Current Situation

Sections 218.12 and 218.125, F.S., direct the legislature to appropriate moneys to be distributed to fiscally constrained counties¹² to offset reductions in ad valorem tax revenue experienced as a result of certain amendments to Article VII of the Florida Constitution in 2008.¹³ These provisions contain an

¹⁰ Section 200.065(5), F.S.

¹¹ Ch. 2008-142, L.O.F.

¹² Defined in s. 218.67(1), F.S.

¹³ Am. C.S. for S.J.R. 2-D, 2007; adopted Jan. 2008 (providing, inter alia, a 10% cap on increase of assessed value of nonhomestead residential real property); Ams. Proposed by Taxation and Budget Reform Commission, Revision No. 4, 2008, filed with the

application process for such fiscally constrained counties, including documentation requirements that require counties to report their maximum millage under chapter 200, F.S. This citation is incorrect. Additionally, distributions under these sections are calculated by multiplying the current year reduction in taxable value by the prior year's millage rate, rather than using the current year's millage rate.

Proposed Change

The bill corrects the maximum millage calculation references, and the calculation of the distribution is corrected to be based on the current year millage. The bill also provides that if a fiscally constrained county fails to apply for the distribution, its share shall revert to the fund from which the appropriation was made.

B. SECTION DIRECTORY:

- Section 1: Amends s. 192.001(2) and (18), F.S., redefining the terms "assessed value of property" and "complete submission on the rolls."
- Section 2: Amends s. 192.0105(2)(d), F.S., limiting the amount of time a petitioner may be required to wait for a VAB hearing.
- Section 3: Repeals s. 192.117, F.S., the Property Tax Administrative Task Force in accordance with s. 20.38, F.S.
- Section 4: Amends s. 193.114(2)(n), F.S., replacing terms that describe what should be included on the real property assessment roll, and removing the requirement that the name and address of the fiduciary responsible for the payment of the taxes on the property be included on the roll.
- Section 5: Amends s. 193.1554, F.S., providing that nonhomestead residential property is to be assessed at just value when it is subject to a new assessment limitation; providing how any increase in value of property assessed under this section which is attributable to combining or dividing parcels should be apportioned.
- Section 6: Amends s. 193.1555, F.S., providing that certain residential and nonresidential real property are to be assessed at just value when they are subject to a new assessment limitation; providing how any increase in value of property assessed under this section which is attributable to combining or dividing parcels should be apportioned.
- Section 7: Amends s. 193.501(7), F.S., removing the provision requiring the tax collector to annually report to the Department the amount of deferred tax liability collected pursuant to this section.
- Section 8: Amends s. 193.503(9), F.S., removing the provision requiring the tax collector to annually report to the Department the amount of deferred tax liability collected pursuant to this section.
- Section 9: Amends s. 193.505(9), F.S., removing the provision requiring the tax collector to annually report to the Department the amount of deferred tax liability collected pursuant to this section.
- Section 10: Amends s. 194.032(2), F.S., limiting the amount of time a petitioner may be required to wait for a VAB hearing.

- Section 11: Amends s. 194.034(2), F.S., removing the clerk's duty to notify the Department of every VAB decision, and providing that the clerk shall furnish a copy of the decision upon the request of the Department.
- Section 12: Amends s. 195.096(2), F.S., allowing the Department to use ratio study standards that are generally accepted by professional appraisal organizations in lieu of the current 95 percent confidence level requirement.
- Section 13: Repeals s. 195.0985, F.S., which requires the Department to annually publish sales ratio studies for counties after approving the tax assessment roll in those counties.
- Section 14: Amends s. 195.099(1) and (2), F.S., removing the Department's mandatory review requirement and, in its place, permits the Department to review assessments of new, rebuilt and expanded businesses that meet certain exemptions.
- Section 15: Amends s. 196.031, F.S., requiring the exemptions applied to homestead property not totally exempt from ad valorem taxation to be applied in a manner that results in the lowest taxable value.
- Section 16: Amends s. 196.081, F.S., allowing certain permanently and totally disabled veterans and surviving spouses of veterans to apply for an exemption prior to receiving the necessary documentation from the federal government evidencing the disability. Approval of the exemption and a refund of excess tax payments made will follow receipt of the necessary documentation, subject to the 4-year period of limitation in s. 197.182(1)(e), F.S.
- Section 17: Amends s. 196.082, F.S., allowing disabled veterans to apply for a property tax discount prior to receiving the necessary documentation from the federal government evidencing the disability. Approval of the discount and a refund of excess tax payments made will follow receipt of the necessary documentation, subject to the 4-year period of limitation in s. 197.182(1)(e), F.S..
- Section 18: Amends s. 196.091, F.S., allowing disabled veterans confined to wheelchairs to apply for an exemption prior to receiving the necessary documentation from the federal government evidencing the disability. Approval of the exemption and a refund of excess tax payments made will follow receipt of the necessary documentation, subject to the 4-year period of limitation in s. 197.182(1)(e), F.S.
- Section 19: Amends s. 196.101, F.S., allowing totally and permanently disabled persons to apply for an exemption prior to receiving the necessary documentation from the federal government evidencing the disability. Approval of the exemption and a refund of excess tax payments made will follow receipt of the necessary documentation, subject to the 4-year period of limitation in s. 197.182(1)(e), F.S.
- Section 20: Amends s. 196.121(1), F.S., removing the requirement that the Department provide printed forms; requiring the Department to provide the forms by electronic means or other methods designated by the Department.
- Section 21: Amends s. 199.196(1), F.S., adding a provision related to property of the state and its political subdivisions and municipalities of this state, when used in conjunction with, or as an essential ancillary function of, an exempt or immune Federal, State or County facility, or property.
- Section 22: Amends s. 196.202, F.S., allowing widows, widowers, blind persons, and persons totally and permanently disabled to apply for an exemption prior to receiving the necessary documentation from the federal government evidencing the disability. Approval of the exemption and a refund of excess tax payments made will follow receipt of the necessary documentation, subject to the 4-year period of limitation in s. 197.182(1)(e), F.S.

- Section 23: Amends s. 196.24, F.S., allowing a disabled ex-servicemember or surviving spouse to apply for an exemption prior to receiving the necessary documentation from the federal government evidencing the disability. Approval of the exemption and a refund of excess tax payments made will follow receipt of the necessary documentation, subject to the 4-year period of limitation in s. 197.182(1)(e), F.S.
- Section 24: Amends s. 200.065, F.S., correcting an apparent drafting error and requiring the district school board to publish notice of intent to levy additional taxes under s. 1011.71(3), F.S.
- Section 25: Amends s. 200.069, F.S., to require the property appraiser to mail an additional form along with the "TRIM" notice, upon request of the governing body of the county that may include information regarding the proposed budget for the county to inform taxpayers of the portion of the proposed nonvoted county millage rate which is attributable to each constitutional officer and the county commission.
- Section 26: Amends s. 218.12, F.S., changing a maximum millage rate cross-reference, replacing the year's millage rate to be multiplied against a county's current reduction in ad valorem taxation, and stating what will happen to unused funds if a fiscally constrained county fails to apply for the distribution.
- Section 27: Amends s. 218.125, F.S., changing a maximum millage rate cross-reference, replacing the year's millage rate to be multiplied against a county's current reduction in ad valorem taxation, and stating what will happen to unused funds if a fiscally constrained county fails to apply for the distribution.
- Section 28: Provides the effective date for the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimated that the bill will have no impact on state revenue.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Except for the provisions relating to certain exemption of government-owned property, which staff estimates will have a negative, but unknown local revenue impact, the Revenue Estimating Conference estimated that the bill will have a negative recurring impact on local revenue of \$0.6 million, beginning in FY 2012-13.

2. Expenditures:

None.

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 Art. VII, section 18, of the Florida Constitution may apply because this bill would reduce a county or municipality's authority to raise revenue in the aggregate; however, an exemption may apply. Laws having an insignificant fiscal impact are exempt from the requirements of Art. VII, section 18, of the Florida Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to the administration of property
3 taxes; amending s. 192.001, F.S.; revising the
4 definitions of the terms "assessed value of property"
5 and "complete submission of the rolls"; amending s.
6 192.0105, F.S.; providing that a taxpayer has a right
7 to have a hearing before the value adjustment board
8 rescheduled if the hearing is not commenced within a
9 certain period after the scheduled time; repealing s.
10 192.117, F.S., relating to the Property Tax
11 Administration Task Force; amending s. 193.114, F.S.;
12 revising the information that must be included on a
13 real property assessment roll relating to the transfer
14 of ownership of property; defining the term "ownership
15 transfer date"; deleting a requirement to include
16 information relating to a fiduciary on a real property
17 assessment roll; amending s. 193.1554, F.S.; deleting
18 obsolete provisions; providing for the apportionment
19 of increases in the value of combined and divided
20 parcels of nonhomestead residential property;
21 providing for the application of an assessment
22 limitation to a combined or divided parcel of
23 nonhomestead residential property; amending s.
24 193.1555, F.S.; redefining the term "nonresidential
25 real property" to conform a cross-reference to the
26 State Constitution; deleting obsolete provisions;
27 providing for the apportionment of increases in the
28 value of combined and divided parcels of property;

29 providing for the application of an assessment
 30 limitation to a combined or divided parcel of
 31 property; amending ss. 193.501, 193.503, and 193.505,
 32 F.S.; deleting provisions requiring that the tax
 33 collector report amounts of deferred tax liability to
 34 the Department of Revenue; amending s. 194.032, F.S.;
 35 requiring that a hearing before the value adjustment
 36 board be rescheduled if the hearing on the
 37 petitioner's petition is not commenced within a
 38 certain time after the scheduled time; making
 39 technical and grammatical changes; amending s.
 40 194.034, F.S.; deleting an exception to a requirement
 41 that a value adjustment board render a written
 42 decision relating to the petitioner's failure to make
 43 a required payment; deleting a requirement that the
 44 Department of Revenue be notified of decisions by the
 45 value adjustment board; requiring that the clerk
 46 notify the Department of Revenue of a decision of the
 47 value adjustment board or information relating to the
 48 tax impact of the decision upon request; making
 49 technical and grammatical changes; amending s.
 50 195.096, F.S.; authorizing the measures in the
 51 findings resulting from an in-depth review of an
 52 assessment roll of a county to be based on a ratio
 53 that is generally accepted by professional appraisal
 54 organizations in developing a statistically valid
 55 sampling plan under certain circumstances; revising
 56 the requirements for the Department of Revenue to

57 | provide certain information concerning its review of
 58 | assessment rolls to the Legislature, the appropriate
 59 | property appraiser, and county commissions; requiring
 60 | that copies of the review data and findings be
 61 | provided upon request; repealing s. 195.0985, F.S.,
 62 | relating to a requirement that the department publish
 63 | annual ratio studies; amending s. 195.099, F.S.;
 64 | allowing the department discretion in determining
 65 | whether to review the assessments of certain
 66 | businesses; amending s. 196.031, F.S.; requiring that
 67 | ad valorem tax exemptions be applied in the order that
 68 | results in the lowest taxable value of a homestead;
 69 | amending s. 196.081, F.S.; authorizing an applicant
 70 | for an ad valorem tax exemption for a disabled veteran
 71 | or for a surviving spouse to apply for the exemption
 72 | before receiving certain documentation from the
 73 | Federal Government; requiring refunds of excess taxes
 74 | paid under certain circumstances; amending s. 196.082,
 75 | F.S.; authorizing an applicant for an ad valorem tax
 76 | discount available to disabled veterans to apply for
 77 | the discount before receiving certain documentation
 78 | from the Federal Government; requiring refunds of
 79 | excess taxes paid under certain circumstances;
 80 | amending s. 196.091, F.S.; authorizing an applicant
 81 | for an ad valorem tax exemption for disabled veterans
 82 | confined to a wheelchair to apply for the exemption
 83 | before receiving certain documentation from the
 84 | Federal Government; requiring refunds of excess taxes

85 | paid under certain circumstances; amending s. 196.101,
86 | F.S.; authorizing an applicant for an ad valorem tax
87 | exemption for totally and permanently disabled persons
88 | to apply for the exemption before receiving certain
89 | documentation from the Federal Government; requiring
90 | refunds of excess taxes paid under certain
91 | circumstances; amending s. 196.121, F.S.; authorizing
92 | the Department of Revenue to provide certain forms
93 | electronically; deleting a requirement that the
94 | department supply printed forms to property
95 | appraisers; amending s. 196.199, F.S.; amending s.
96 | 196.202, F.S.; authorizing an applicant for an ad
97 | valorem exemption for widows, widowers, blind persons,
98 | or persons who are totally and permanently disabled to
99 | apply for the exemption before receiving certain
100 | documentation from the Federal Government; requiring
101 | refunds of excess taxes paid under certain
102 | circumstances; amending s. 196.24, F.S.; authorizing
103 | an applicant for an ad valorem tax exemption for
104 | disabled ex-servicemembers or a surviving spouse to
105 | apply for the exemption before receiving certain
106 | documentation from the Federal Government; requiring
107 | refunds of excess taxes paid under certain
108 | circumstances; amending s. 200.065, F.S.; deleting
109 | obsolete provisions; revising provisions relating to
110 | the calculation of the rolled-back rate; correcting
111 | cross-references to certain additional taxes; amending
112 | s. 200.069, F.S.; requiring a property appraiser, at

113 the request of the governing body of a county, to mail
 114 an additional form along with the notice of proposed
 115 taxes to notify taxpayers of the portion of the
 116 proposed nonvoted county millage rate that is
 117 attributable to each constitutional officer and the
 118 county commission; amending ss. 218.12 and 218.125,
 119 F.S.; deleting obsolete provisions; providing for the
 120 reversion of funds appropriated to offset reductions
 121 in ad valorem tax revenue to a fiscally constrained
 122 county if the county fails to apply for a distribution
 123 of funds; providing effective dates.

124

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

126

127 Section 1. Subsections (2) and (18) of section 192.001,
 128 Florida Statutes, are amended to read:

129 192.001 Definitions.—All definitions set out in chapters 1
 130 and 200 that are applicable to this chapter are included herein.
 131 In addition, the following definitions shall apply in the
 132 imposition of ad valorem taxes:

133 (2) "Assessed value of property" means an annual
 134 determination of:

135 (a) The just or fair market value of an item or property;

136 ~~or~~

137 (b) The value of ~~the homestead~~ property as limited by
 138 ~~pursuant to s. 4(d),~~ Art. VII of the State Constitution; ~~or~~

139 (c) The value of property in a classified use or at a
 140 fractional value if the a property is assessed solely on the

141 basis of character or use or at a specified percentage of its
 142 value under, ~~pursuant to s. 4(a) or 4(e)~~, Art. VII of the State
 143 Constitution, ~~its classified use value or fractional value.~~

144 (18) "Complete submission of the rolls" includes, but is
 145 not ~~necessarily~~ limited to, accurate tabular summaries of
 146 valuations as prescribed by department rule; an electronic a
 147 ~~computer tape~~ copy of the real property assessment roll
 148 including for each parcel total value of improvements, land
 149 value, the ~~two most recently~~ recorded selling prices, data
 150 required for an assessment roll under s. 193.114, the value of
 151 any improvement made to the parcel in the 12 months preceding
 152 the valuation date, the type and amount of any exemption
 153 granted, and such other information as may be required by
 154 department rule; an accurate tabular summary by property class
 155 of any adjustments made to recorded selling prices or fair
 156 market value in arriving at assessed value, as prescribed by
 157 department rule; an electronic a ~~computer tape~~ copy of the
 158 tangible personal property assessment roll, including for each
 159 entry a unique account number and such other information as may
 160 be required by department rule; and an accurate tabular summary
 161 of per-acre land valuations used for each class of agricultural
 162 property in preparing the assessment roll, as prescribed by
 163 department rule.

164 Section 2. Paragraph (d) of subsection (2) of section
 165 192.0105, Florida Statutes, is amended to read:

166 192.0105 Taxpayer rights.—There is created a Florida
 167 Taxpayer's Bill of Rights for property taxes and assessments to
 168 guarantee that the rights, privacy, and property of the

169 taxpayers of this state are adequately safeguarded and protected
 170 during tax levy, assessment, collection, and enforcement
 171 processes administered under the revenue laws of this state. The
 172 Taxpayer's Bill of Rights compiles, in one document, brief but
 173 comprehensive statements that summarize the rights and
 174 obligations of the property appraisers, tax collectors, clerks
 175 of the court, local governing boards, the Department of Revenue,
 176 and taxpayers. Additional rights afforded to payors of taxes and
 177 assessments imposed under the revenue laws of this state are
 178 provided in s. 213.015. The rights afforded taxpayers to assure
 179 that their privacy and property are safeguarded and protected
 180 during tax levy, assessment, and collection are available only
 181 insofar as they are implemented in other parts of the Florida
 182 Statutes or rules of the Department of Revenue. The rights so
 183 guaranteed to state taxpayers in the Florida Statutes and the
 184 departmental rules include:

185 (2) THE RIGHT TO DUE PROCESS.—

186 (d) The right to prior notice of the value adjustment
 187 board's hearing date, and the right to the hearing at the within
 188 4 hours of scheduled time, and the right to have the hearing
 189 rescheduled if the hearing is not commenced within a reasonable
 190 time, not to exceed 2 hours, after the scheduled time (see s.
 191 194.032(2)).

192 Section 3. Section 192.117, Florida Statutes, is repealed.

193 Section 4. Paragraphs (n) and (p) of subsection (2) of
 194 section 193.114, Florida Statutes, are amended to read:

195 193.114 Preparation of assessment rolls.—

196 (2) The real property assessment roll shall include:

197 (n) The recorded selling ~~For each sale of the property in~~
 198 ~~the previous year, the sale price, ownership transfer sale date,~~
 199 ~~and official record book and page number or clerk instrument~~
 200 ~~number for each deed or other instrument transferring ownership~~
 201 ~~of real property and recorded or otherwise discovered during the~~
 202 ~~period beginning 1 year before the assessment date and up to the~~
 203 ~~date the assessment roll is submitted to the department. The~~
 204 ~~assessment roll shall also include,~~ and the basis for
 205 qualification or disqualification of a transfer as an arms-
 206 length transaction. A decision qualifying or disqualifying a
 207 transfer of property as an arms-length transaction ~~sale data~~
 208 ~~must be current on all tax rolls submitted to the department,~~
 209 ~~and sale qualification decisions~~ must be recorded on the
 210 assessment ~~tax~~ roll within 3 months after the sale date ~~that the~~
 211 deed or other transfer instrument is recorded or otherwise
 212 discovered. Sale or transfer data must be current on all tax
 213 rolls submitted to the department. As used in this paragraph,
 214 the term "ownership transfer date" means the date that the deed
 215 or other transfer instrument is signed and notarized or
 216 otherwise executed.

217 (p) The name and address of the owner ~~or fiduciary~~
 218 ~~responsible for the payment of taxes on the property and an~~
 219 ~~indicator of fiduciary capacity, as appropriate.~~

220 Section 5. Subsections (2), (3), and (7) of section
 221 193.1554, Florida Statutes, are amended to read:

222 193.1554 Assessment of nonhomestead residential property.—

223 (2) For all levies other than school district levies,
 224 nonhomestead residential property shall be assessed at just

225 value as of January 1 of the year that the property becomes
 226 eligible for assessment pursuant to this section,~~2008. Property~~
 227 ~~placed on the tax roll after January 1, 2008, shall be assessed~~
 228 ~~at just value as of January 1 of the year in which the property~~
 229 ~~is placed on the tax roll.~~

230 (3) Beginning in ~~2009, or~~ the year following the year the
 231 nonhomestead residential property becomes eligible for
 232 assessment pursuant to this section ~~is placed on the tax roll,~~
 233 ~~whichever is later,~~ the property shall be reassessed annually on
 234 January 1. Any change resulting from such reassessment may not
 235 exceed 10 percent of the assessed value of the property for the
 236 prior year.

237 (7) Any increase in the value of property assessed under
 238 this section which is attributable to combining or dividing
 239 parcels shall be assessed at just value, and the just value
 240 shall be apportioned among the parcels created.

241 (a) For divided parcels, the amount by which the sum of
 242 the just values of the divided parcels exceeds what the just
 243 value of the parcel would be if undivided shall be attributable
 244 to the division. This amount shall be apportioned to the parcels
 245 pro rata based on their relative just values.

246 (b) For combined parcels, the amount by which the just
 247 value of the combined parcel exceeds what the sum of the just
 248 values of the component parcels would be if they had not been
 249 combined shall be attributable to the combination.

250 (c) A parcel that is created by combining or dividing a
 251 parcel and that is eligible for assessment pursuant to this
 252 section retains such eligibility and shall be assessed as

253 provided in this subsection. A parcel that is combined or
 254 divided after January 1 and that is included as a combined or
 255 divided parcel on the tax notice is not considered to be a
 256 combined or divided parcel for purposes of this section until
 257 the January 1 on which it is first assessed as a combined or
 258 divided parcel.

259 Section 6. Subsections (1), (2), (3), and (7) of section
 260 193.1555, Florida Statutes, are amended to read:

261 193.1555 Assessment of certain residential and
 262 nonresidential real property.—

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

264 (a) "Nonresidential real property" means real property
 265 that is not subject to the assessment limitations set forth in
 266 subsection 4(a), (b), (c), (d), or (g), Art. VII of the State
 267 Constitution s. 4(a), (c), (d), or (g), Art. VII of the State
 268 Constitution.

269 (b) "Improvement" means an addition or change to land or
 270 buildings which increases their value and is more than a repair
 271 or a replacement.

272 (2) For all levies other than school district levies,
 273 nonresidential real property and residential real property that
 274 is not assessed under s. 193.155 or s. 193.1554 shall be
 275 assessed at just value as of January 1 of the year that the
 276 property becomes eligible for assessment pursuant to this
 277 section, 2008. Property placed on the tax roll after January 1,
 278 2008, shall be assessed at just value as of January 1 of the
 279 year in which the property is placed on the tax roll.

280 (3) Beginning in ~~2009~~, ~~or~~ the year following the year the

281 property becomes eligible for assessment pursuant to this
 282 section is placed on the tax roll, whichever is later, the
 283 property shall be reassessed annually on January 1. Any change
 284 resulting from such reassessment may not exceed 10 percent of
 285 the assessed value of the property for the prior year.

286 (7) Any increase in the value of property assessed under
 287 this section which is attributable to combining or dividing
 288 parcels shall be assessed at just value, and the just value
 289 shall be apportioned among the parcels created.

290 (a) For divided parcels, the amount by which the sum of
 291 the just values of the divided parcels exceeds what the just
 292 value of the parcel would be if undivided shall be attributable
 293 to the division. This amount shall be apportioned to the parcels
 294 pro rata based on their relative just values.

295 (b) For combined parcels, the amount by which the just
 296 value of the combined parcel exceeds what the sum of the just
 297 values of the component parcels would be if they had not been
 298 combined shall be attributable to the combination.

299 (c) A parcel that is created by combining or dividing a
 300 parcel that is eligible for assessment pursuant to this section
 301 retains such eligibility and shall be assessed as provided in
 302 this subsection. A parcel that is combined or divided after
 303 January 1 and that is included as a combined or divided parcel
 304 on the tax notice is not considered to be a combined or divided
 305 parcel for purposes of this section until the January 1 on which
 306 it is first assessed as a combined or divided parcel.

307 Section 7. Subsection (7) of section 193.501, Florida
 308 Statutes, is amended to read:

309 | 193.501 Assessment of lands subject to a conservation
 310 | easement, environmentally endangered lands, or lands used for
 311 | outdoor recreational or park purposes when land development
 312 | rights have been conveyed or conservation restrictions have been
 313 | covenanted.-

314 | (7)~~(a)~~ The property appraiser shall report to the
 315 | department showing the just value and the classified use value
 316 | of property that is subject to a conservation easement under s.
 317 | 704.06, property assessed as environmentally endangered land
 318 | pursuant to this section, and property assessed as outdoor
 319 | recreational or park land.

320 | ~~(b) The tax collector shall annually report to the~~
 321 | ~~department the amount of deferred tax liability collected~~
 322 | ~~pursuant to this section.~~

323 | Section 8. Paragraph (d) of subsection (9) of section
 324 | 193.503, Florida Statutes, is amended to read:

325 | 193.503 Classification and assessment of historic property
 326 | used for commercial or certain nonprofit purposes.-

327 | (9)

328 | ~~(d) The tax collector shall annually report to the~~
 329 | ~~department the amount of deferred tax liability collected~~
 330 | ~~pursuant to this section.~~

331 | Section 9. Paragraph (c) of subsection (9) of section
 332 | 193.505, Florida Statutes, is amended to read:

333 | 193.505 Assessment of historically significant property
 334 | when development rights have been conveyed or historic
 335 | preservation restrictions have been covenanted.-

336 | (9)

337 ~~(c) The tax collector shall annually report to the~~
 338 ~~department the amount of deferred tax liability collected~~
 339 ~~pursuant to this section.~~

340 Section 10. Subsection (2) of section 194.032, Florida
 341 Statutes, is amended to read:

342 194.032 Hearing purposes; timetable.—

343 (2) (a) The clerk of the governing body of the county shall
 344 prepare a schedule of appearances before the board based on
 345 petitions timely filed with him or her. The clerk shall notify
 346 each petitioner of the scheduled time of his or her appearance
 347 at least no less than 25 calendar days before ~~prior to~~ the day of
 348 the such scheduled appearance. The notice shall indicate whether
 349 the petition has been scheduled to be heard at a particular time
 350 or during a block of time. If the petition has been scheduled to
 351 be heard within a block of time, the beginning and ending of
 352 that block of time shall be indicated on the notice; however, as
 353 provided in paragraph (b), a petitioner may not be required to
 354 wait for more than a reasonable time, not to exceed 2 hours,
 355 after the beginning of the block of time. If the petitioner
 356 checked the appropriate box on the petition form to request a
 357 copy of the property record card containing relevant information
 358 used in computing the current assessment, the clerk shall
 359 provide the copy of the card along with the notice. Upon receipt
 360 of the notice ~~this notification~~, the petitioner may ~~shall have~~
 361 ~~the right to~~ reschedule the hearing a single time by submitting
 362 to the clerk ~~of the governing body of the county~~ a written
 363 request to reschedule, at least no less than 5 calendar days
 364 before the day of the originally scheduled hearing.

365 (b) ~~A copy of the property record card containing relevant~~
 366 ~~information used in computing the taxpayer's current assessment~~
 367 ~~shall be included with such notice, if said card was requested~~
 368 ~~by the taxpayer. Such request shall be made by checking an~~
 369 ~~appropriate box on the petition form. No petitioner may not~~
 370 ~~shall~~ be required to wait for more than a reasonable time, not
 371 to exceed 2 4 hours, after from the scheduled time for the
 372 hearing to commence. ~~and,~~ If the hearing is not commenced
 373 within his or her petition is not heard in that time, the
 374 petitioner may inform, ~~at his or her option, report to the~~
 375 chairperson of the meeting that he or she intends to leave. ~~and,~~
 376 and, If the petitioner leaves he or she is not heard
 377 immediately, the clerk shall reschedule the hearing, and the
 378 rescheduling is not considered to be a request to reschedule as
 379 provided in paragraph (a) petitioner's administrative remedies
 380 will be deemed to be exhausted, and he or she may seek further
 381 relief as he or she deems appropriate.

382 (c) Failure on three occasions with respect to any single
 383 tax year to convene at the scheduled time of meetings of the
 384 board is ~~shall constitute~~ grounds for removal from office by the
 385 Governor for neglect of duties.

386 Section 11. Subsection (2) of section 194.034, Florida
 387 Statutes, is amended to read:

388 194.034 Hearing procedures; rules.-

389 (2) In each case, except if the ~~when a~~ complaint is
 390 withdrawn by the petitioner or if the complaint, is acknowledged
 391 as correct by the property appraiser, ~~or is denied pursuant to~~
 392 ~~s. 194.014(1)(c),~~ the value adjustment board shall render a

393 written decision. All such decisions shall be issued within 20
 394 calendar days after ~~of~~ the last day the board is in session
 395 under s. 194.032. The decision of the board must ~~shall~~ contain
 396 findings of fact and conclusions of law and must ~~shall~~ include
 397 reasons for upholding or overturning the determination of the
 398 property appraiser. If ~~When~~ a special magistrate has been
 399 appointed, the recommendations of the special magistrate shall
 400 be considered by the board. The clerk, upon issuance of a
 401 decision ~~the decisions~~, shall, on a form provided by the
 402 Department of Revenue, notify by first-class mail each taxpayer
 403 and, ~~the property appraiser, and the department~~ of the decision
 404 of the board. If requested by the Department of Revenue, the
 405 clerk shall provide to the department a copy of the decision or
 406 information relating to the tax impact of the findings and
 407 results of the board as described in s. 194.037 in the manner
 408 and form requested.

409 Section 12. Effective July 1, 2012, paragraph (f) of
 410 subsection (2) and subsection (3) of section 195.096, Florida
 411 Statutes, are amended to read:

412 195.096 Review of assessment rolls.—

413 (2) The department shall conduct, no less frequently than
 414 once every 2 years, an in-depth review of the assessment rolls
 415 of each county. The department need not individually study every
 416 use-class of property set forth in s. 195.073, but shall at a
 417 minimum study the level of assessment in relation to just value
 418 of each classification specified in subsection (3). Such in-
 419 depth review may include proceedings of the value adjustment
 420 board and the audit or review of procedures used by the counties

421 to appraise property.

422 (f) Within 120 days after ~~following the~~ receipt of a
 423 county assessment roll by the executive director of the
 424 department pursuant to s. 193.1142(1), or within 10 days after
 425 approval of the assessment roll, whichever is later, the
 426 department shall complete the review for that county and publish
 427 the department's ~~forward its~~ findings. The findings must
 428 include, ~~including~~ a statement of the confidence interval for
 429 the median and such other measures as may be appropriate for
 430 each classification or subclassification studied and for the
 431 roll as a whole, ~~employing a 95 percent level of confidence,~~ and
 432 related statistical and analytical details. The measures in the
 433 findings must be based on:

- 434 1. A 95 percent level of confidence; or
- 435 2. Ratio study standards that are generally accepted by
 436 professional appraisal organizations in developing a
 437 statistically valid sampling plan if a 95 percent level of
 438 confidence is not attainable to the Senate and the House of
 439 ~~Representatives committees with oversight responsibilities for~~
 440 ~~taxation, and the appropriate property appraiser. Upon releasing~~
 441 ~~its findings, the department shall notify the chairperson of the~~
 442 ~~appropriate county commission or the corresponding official~~
 443 ~~under a consolidated charter that the department's findings are~~
 444 ~~available upon request. The department shall, within 90 days~~
 445 ~~after receiving a written request from the chairperson of the~~
 446 ~~appropriate county commission or the corresponding official~~
 447 ~~under a consolidated charter, forward a copy of its findings,~~
 448 ~~including the confidence interval for the median and such other~~

449 ~~measures of each classification or subclassification studied and~~
 450 ~~for all the roll as a whole, and related statistical and~~
 451 ~~analytical details, to the requesting party.~~

452 (3) (a) Upon completion of review pursuant to paragraph
 453 (2) (f), the department shall publish the results of reviews
 454 conducted under this section. The results must include all
 455 statistical and analytical measures computed under this section
 456 for the real property assessment roll as a whole, the personal
 457 property assessment roll as a whole, and independently for the
 458 following real property classes if ~~whenever~~ the classes
 459 constituted 5 percent or more of the total assessed value of
 460 real property in a county on the previous tax roll:

- 461 1. Residential property that consists of one primary
 462 living unit, including, but not limited to, single-family
 463 residences, condominiums, cooperatives, and mobile homes.
- 464 2. Residential property that consists of two or more
 465 primary living units.
- 466 3. Agricultural, high-water recharge, historic property
 467 used for commercial or certain nonprofit purposes, and other
 468 use-valued property.
- 469 4. Vacant lots.
- 470 5. Nonagricultural acreage and other undeveloped parcels.
- 471 6. Improved commercial and industrial property.
- 472 7. Taxable institutional or governmental, utility, locally
 473 assessed railroad, oil, gas and mineral land, subsurface rights,
 474 and other real property.

475
 476 If ~~When~~ one of the above classes constituted less than 5 percent

477 of the total assessed value of all real property in a county on
 478 the previous assessment roll, the department may combine it with
 479 one or more other classes of real property for purposes of
 480 assessment ratio studies or use the weighted average of the
 481 other classes for purposes of calculating the level of
 482 assessment for all real property in a county. The department
 483 shall also publish such results for any subclassifications of
 484 the classes or assessment rolls it may have chosen to study.

485 (b) If ~~When~~ necessary for compliance with s. 1011.62, and
 486 for those counties not being studied in the current year, the
 487 department shall project value-weighted mean levels of
 488 assessment for each county. The department shall make its
 489 projection based upon the best information available, using
 490 ~~utilizing~~ professionally accepted methodology, and shall
 491 separately allocate changes in total assessed value to:

- 492 1. New construction, additions, and deletions.
- 493 2. Changes in the value of the dollar.
- 494 3. Changes in the market value of property other than
 495 those attributable to changes in the value of the dollar.
- 496 4. Changes in the level of assessment.

497
 498 In lieu of the statistical and analytical measures published
 499 pursuant to paragraph (a), the department shall publish details
 500 concerning the computation of estimated assessment levels and
 501 the allocation of changes in assessed value for those counties
 502 not subject to an in-depth review.

503 (c) Upon publication of data and findings as required by
 504 this subsection, the department shall notify the committees of

505 the Senate and of the House of Representatives having oversight
 506 responsibility for taxation, the appropriate property appraiser,
 507 and the county commission chair or corresponding official under
 508 a consolidated charter. Copies of the data and findings shall be
 509 provided upon request.

510 Section 13. Section 195.0985, Florida Statutes, is
 511 repealed.

512 Section 14. Section 195.099, Florida Statutes, is amended
 513 to read:

514 195.099 Periodic review.—

515 (1) (a) The department may ~~shall~~ ~~periodically~~ review the
 516 assessments of new, rebuilt, and expanded business reported
 517 according to s. 193.077(3), to ensure parity of level of
 518 assessment with other classifications of property.

519 (b) This subsection shall expire on the date specified in
 520 s. 290.016 for the expiration of the Florida Enterprise Zone
 521 Act.

522 (2) The department may ~~shall~~ review the assessments of new
 523 and expanded businesses granted an exemption pursuant to s.
 524 196.1995 to ensure parity of level of assessment with other
 525 classifications of property.

526 Section 15. Subsection (7) of section 196.031, Florida
 527 Statutes, is amended to read:

528 196.031 Exemption of homesteads.—

529 (7) Unless the homestead property is totally exempt from
 530 ad valorem taxation, the exemptions provided in paragraphs
 531 (1) (a) and (b) and other homestead exemptions shall be applied
 532 in the order that results in the lowest taxable value. as

533 follows:

534 ~~(a) The exemption in paragraph (1)(a) shall apply to the~~
 535 ~~first \$25,000 of assessed value;~~

536 ~~(b) The second \$25,000 of assessed value shall be taxable~~
 537 ~~unless other exemptions, as listed in paragraph (d), are~~
 538 ~~applicable in the order listed;~~

539 ~~(c) The additional homestead exemption in paragraph~~
 540 ~~(1)(b), for levies other than school district levies, shall be~~
 541 ~~applied to the assessed value greater than \$50,000 before any~~
 542 ~~other exemptions are applied to that assessed value; and~~

543 ~~(d) Other exemptions include and shall be applied in the~~
 544 ~~following order: widows, widowers, blind persons, and disabled~~
 545 ~~persons, as provided in s. 196.202; disabled ex-servicemembers~~
 546 ~~and surviving spouses, as provided in s. 196.24, applicable to~~
 547 ~~all levies; the local option low income senior exemption up to~~
 548 ~~\$50,000, applicable to county levies or municipal levies, as~~
 549 ~~provided in s. 196.075; and the veterans percentage discount, as~~
 550 ~~provided in s. 196.082.~~

551 Section 16. Subsection (5) is added to section 196.081,
 552 Florida Statutes, to read:

553 196.081 Exemption for certain permanently and totally
 554 disabled veterans and for surviving spouses of veterans.—

555 (5) An applicant for the exemption under this section may
 556 apply for the exemption before receiving the necessary
 557 documentation from the United States Government or the United
 558 States Department of Veterans Affairs or its predecessor. Upon
 559 receipt of the documentation, the exemption shall be granted as
 560 of the date of the original application, and the excess taxes

561 paid shall be refunded. Any refund of excess taxes paid shall be
 562 limited to those paid during the 4-year period of limitation set
 563 forth in s. 197.182(1)(e).

564 Section 17. Subsection (6) is added to section 196.082,
 565 Florida Statutes, to read:

566 196.082 Discounts for disabled veterans.—

567 (6) An applicant for the discount under this section may
 568 apply for the discount before receiving the necessary
 569 documentation from the United States Department of Veterans
 570 Affairs or its predecessor. Upon receipt of the documentation,
 571 the discount shall be granted as of the date of the original
 572 application, and the excess taxes paid shall be refunded. Any
 573 refund of excess taxes paid shall be limited to those paid
 574 during the 4-year period of limitation set forth in s.
 575 197.182(1)(e).

576 Section 18. Subsection (4) is added to section 196.091,
 577 Florida Statutes, to read:

578 196.091 Exemption for disabled veterans confined to
 579 wheelchairs.—

580 (4) An applicant for the exemption under this section may
 581 apply for the exemption before receiving the necessary
 582 documentation from the United States Government or the United
 583 States Department of Veterans Affairs or its predecessor. Upon
 584 receipt of the documentation, the exemption shall be granted as
 585 of the date of the original application, and the excess taxes
 586 paid shall be refunded. Any refund of excess taxes paid shall be
 587 limited to those paid during the 4-year period of limitation set
 588 forth in s. 197.182(1)(e).

589 Section 19. Subsection (8) is added to section 196.101,
590 Florida Statutes, to read:

591 196.101 Exemption for totally and permanently disabled
592 persons.—

593 (8) An applicant for the exemption under this section may
594 apply for the exemption before receiving the necessary
595 documentation from the United States Department of Veterans
596 Affairs or its predecessor. Upon receipt of the documentation,
597 the exemption shall be granted as of the date of the original
598 application, and the excess taxes paid shall be refunded. Any
599 refund of excess taxes paid shall be limited to those paid
600 during the 4-year period of limitation set forth in s.
601 197.182(1)(e).

602 Section 20. Subsection (1) of section 196.121, Florida
603 Statutes, is amended to read:

604 196.121 Homestead exemptions; forms.—

605 (1) The Department of Revenue shall provide, by electronic
606 means or other methods designated by the department, furnish to
607 ~~the property appraiser of each county a sufficient number of~~
608 ~~printed~~ forms to be filed by taxpayers claiming to be entitled
609 to a homestead ~~said~~ exemption and shall prescribe the content of
610 such forms by rule.

611 Section 21. Paragraph (d) is added to subsection (1) of
612 section 196.199, Florida Statutes, to read:

613 196.199 Government property exemption.—

614 (1) Property owned and used by the following governmental
615 units shall be exempt from taxation under the following
616 conditions:

617 (d) All property of the state and its political
 618 subdivisions and municipalities of this state, when used in
 619 conjunction with, or as an essential ancillary function of, an
 620 exempt or immune Federal, State or County facility, or property,
 621 shall be exempt from ad valorem taxation.

622 Section 22. Section 196.202, Florida Statutes, is amended
 623 to read:

624 196.202 Property of widows, widowers, blind persons, and
 625 persons totally and permanently disabled.—

626 (1) Property to the value of \$500 of every widow, widower,
 627 blind person, or totally and permanently disabled person who is
 628 a bona fide resident of this state ~~is shall be~~ exempt from
 629 taxation. As used in this section, the term "totally and
 630 permanently disabled person" means a person who is currently
 631 certified by a physician licensed in this state, by the United
 632 States Department of Veterans Affairs or its predecessor, or by
 633 the Social Security Administration to be totally and permanently
 634 disabled.

635 (2) An applicant for the exemption under this section may
 636 apply for the exemption before receiving the necessary
 637 documentation from the United States Department of Veterans
 638 Affairs or its predecessor, or the Social Security
 639 Administration. Upon receipt of the documentation, the exemption
 640 shall be granted as of the date of the original application, and
 641 the excess taxes paid shall be refunded. Any refund of excess
 642 taxes paid shall be limited to those paid during the 4-year
 643 period of limitation set forth in s. 197.182(1)(e).

644 Section 23. Section 196.24, Florida Statutes, is amended

645 to read:

646 196.24 Exemption for disabled ex-servicemember or
 647 surviving spouse; evidence of disability.—

648 (1) Any ex-servicemember, as defined in s. 196.012, who is
 649 a bona fide resident of the state, who was discharged under
 650 honorable conditions, and who has been disabled to a degree of
 651 10 percent or more by misfortune or while serving during a
 652 period of wartime service as defined in s. 1.01(14),~~or by~~
 653 ~~misfortune,~~ is entitled to the exemption from taxation provided
 654 for in s. 3(b), Art. VII of the State Constitution as provided
 655 in this section. Property to the value of \$5,000 of such a
 656 person is exempt from taxation. The production by him or her of
 657 a certificate of disability from the United States Government or
 658 the United States Department of Veterans Affairs or its
 659 predecessor before the property appraiser of the county wherein
 660 the ex-servicemember's property lies is prima facie evidence of
 661 the fact that he or she is entitled to the exemption. The
 662 unremarried surviving spouse of such a disabled ex-servicemember
 663 who, on the date of the disabled ex-servicemember's death, had
 664 been married to the disabled ex-servicemember for at least 5
 665 years is also entitled to the exemption.

666 (2) An applicant for the exemption under this section may
 667 apply for the exemption before receiving the necessary
 668 documentation from the United States Government or the United
 669 States Department of Veterans Affairs or its predecessor. Upon
 670 receipt of the documentation, the exemption shall be granted as
 671 of the date of the original application, and the excess taxes
 672 paid shall be refunded. Any refund of excess taxes paid shall be

673 limited to those paid during the 4-year period of limitation set
 674 forth in s. 197.182(1)(e).

675 Section 24. Effective July 1, 2012, subsection (5) and
 676 paragraph (a) of subsection (10) of section 200.065, Florida
 677 Statutes, are amended to read:

678 200.065 Method of fixing millage.-

679 (5) ~~Beginning in the 2009-2010 fiscal year and~~ In each
 680 fiscal year thereafter:

681 (a) The maximum millage rate that a county, municipality,
 682 special district dependent to a county or municipality,
 683 municipal service taxing unit, or independent special district
 684 may levy is a rolled-back rate based on the amount of taxes
 685 which would have been levied in the prior year if the maximum
 686 millage rate had been applied, adjusted for change in per capita
 687 Florida personal income, unless a higher rate was ~~is~~ adopted, in
 688 which case the maximum is the adopted rate. The maximum millage
 689 rate applicable to a county authorized to levy a county public
 690 hospital surtax under s. 212.055 and which did so in fiscal year
 691 2007 shall exclude the revenues required to be contributed to
 692 the county public general hospital in the current fiscal year
 693 for the purposes of making the maximum millage rate calculation,
 694 but shall be added back to the maximum millage rate allowed
 695 after the roll back has been applied, the total of which shall
 696 be considered the maximum millage rate for such a county for
 697 purposes of this subsection. The revenue required to be
 698 contributed to the county public general hospital for the
 699 upcoming fiscal year shall be calculated as 11.873 percent times
 700 the millage rate levied for countywide purposes in fiscal year

701 2007 times 95 percent of the preliminary tax roll for the
 702 upcoming fiscal year. A higher rate may be adopted only under
 703 the following conditions:

704 1. A rate of not more than 110 percent of the rolled-back
 705 rate based on the previous year's maximum millage rate, adjusted
 706 for change in per capita Florida personal income, may be adopted
 707 if approved by a two-thirds vote of the membership of the
 708 governing body of the county, municipality, or independent
 709 district; or

710 2. A rate in excess of 110 percent may be adopted if
 711 approved by a unanimous vote of the membership of the governing
 712 body of the county, municipality, or independent district or by
 713 a three-fourths vote of the membership of the governing body if
 714 the governing body has nine or more members, or if the rate is
 715 approved by a referendum.

716 (b) The millage rate of a county or municipality,
 717 municipal service taxing unit of that county, and any special
 718 district dependent to that county or municipality may exceed the
 719 maximum millage rate calculated pursuant to this subsection if
 720 the total county ad valorem taxes levied or total municipal ad
 721 valorem taxes levied do not exceed the maximum total county ad
 722 valorem taxes levied or maximum total municipal ad valorem taxes
 723 levied respectively. Voted millage and taxes levied by a
 724 municipality or independent special district that has levied ad
 725 valorem taxes for less than 5 years are not subject to this
 726 limitation. The millage rate of a county authorized to levy a
 727 county public hospital surtax under s. 212.055 may exceed the
 728 maximum millage rate calculated pursuant to this subsection to

729 | the extent necessary to account for the revenues required to be
 730 | contributed to the county public hospital. Total taxes levied
 731 | may exceed the maximum calculated pursuant to subsection (6) as
 732 | a result of an increase in taxable value above that certified in
 733 | subsection (1) if such increase is less than the percentage
 734 | amounts contained in subsection (6) or if the administrative
 735 | adjustment cannot be made because the value adjustment board is
 736 | still in session at the time the tax roll is extended;
 737 | otherwise, millage rates subject to this subsection, s. 200.185,
 738 | or s. 200.186 may be reduced so that total taxes levied do not
 739 | exceed the maximum.

740 |
 741 | Any unit of government operating under a home rule charter
 742 | adopted pursuant to ss. 10, 11, and 24, Art. VIII of the State
 743 | Constitution of 1885, as preserved by s. 6(e), Art. VIII of the
 744 | State Constitution of 1968, which is granted the authority in
 745 | the State Constitution to exercise all the powers conferred now
 746 | or hereafter by general law upon municipalities and which
 747 | exercises such powers in the unincorporated area shall be
 748 | recognized as a municipality under this subsection. For a
 749 | downtown development authority established before the effective
 750 | date of the 1968 State Constitution which has a millage that
 751 | must be approved by a municipality, the governing body of that
 752 | municipality shall be considered the governing body of the
 753 | downtown development authority for purposes of this subsection.

754 | (10) (a) In addition to the notice required in subsection
 755 | (3), a district school board shall publish a second notice of
 756 | intent to levy additional taxes under s. 1011.71(2) or (3). The

757 | ~~Such~~ notice shall specify the projects or number of school buses
758 | anticipated to be funded by the ~~such~~ additional taxes and shall
759 | be published in the size, within the time periods, adjacent to,
760 | and in substantial conformity with the advertisement required
761 | under subsection (3). The projects shall be listed in priority
762 | within each category as follows: construction and remodeling;
763 | maintenance, renovation, and repair; motor vehicle purchases;
764 | new and replacement equipment; payments for educational
765 | facilities and sites due under a lease-purchase agreement;
766 | payments for renting and leasing educational facilities and
767 | sites; payments of loans approved pursuant to ss. 1011.14 and
768 | 1011.15; payment of costs of compliance with environmental
769 | statutes and regulations; payment of premiums for property and
770 | casualty insurance necessary to insure the educational and
771 | ancillary plants of the school district; payment of costs of
772 | leasing relocatable educational facilities; and payments to
773 | private entities to offset the cost of school buses pursuant to
774 | s. 1011.71(2)(i). The additional notice shall be in the
775 | following form, except that if the district school board is
776 | proposing to levy the same millage under s. 1011.71(2) or (3)
777 | which it levied in the prior year, the words "continue to" shall
778 | be inserted before the word "impose" in the first sentence, and
779 | except that the second sentence of the second paragraph shall be
780 | deleted if the district is advertising pursuant to paragraph
781 | (3) (e):

NOTICE OF TAX FOR SCHOOL

CAPITAL OUTLAY

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The ...(name of school district)... will soon consider a measure to impose a ...(number)... mill property tax for the capital outlay projects listed herein.

This tax is in addition to the school board's proposed tax of ...(number)... mills for operating expenses and is proposed solely at the discretion of the school board. THE PROPOSED COMBINED SCHOOL BOARD TAX INCREASE FOR BOTH OPERATING EXPENSES AND CAPITAL OUTLAY IS SHOWN IN THE ADJACENT NOTICE.

The capital outlay tax will generate approximately \$...(amount)..., to be used for the following projects:

...(list of capital outlay projects)...

All concerned citizens are invited to a public hearing to be held on ...(date and time)... at ...(meeting place)....

A DECISION on the proposed CAPITAL OUTLAY TAXES will be made at this hearing.

Section 25. Subsection (11) is added to section 200.069, Florida Statutes, to read:

200.069 Notice of proposed property taxes and non-ad valorem assessments.—Pursuant to s. 200.065(2)(b), the property appraiser, in the name of the taxing authorities and local governing boards levying non-ad valorem assessments within his or her jurisdiction and at the expense of the county, shall prepare and deliver by first-class mail to each taxpayer to be listed on the current year's assessment roll a notice of proposed property taxes, which notice shall contain the elements

813 and use the format provided in the following form.
 814 Notwithstanding the provisions of s. 195.022, no county officer
 815 shall use a form other than that provided herein. The Department
 816 of Revenue may adjust the spacing and placement on the form of
 817 the elements listed in this section as it considers necessary
 818 based on changes in conditions necessitated by various taxing
 819 authorities. If the elements are in the order listed, the
 820 placement of the listed columns may be varied at the discretion
 821 and expense of the property appraiser, and the property
 822 appraiser may use printing technology and devices to complete
 823 the form, the spacing, and the placement of the information in
 824 the columns. A county officer may use a form other than that
 825 provided by the department for purposes of this part, but only
 826 if his or her office pays the related expenses and he or she
 827 obtains prior written permission from the executive director of
 828 the department; however, a county officer may not use a form the
 829 substantive content of which is at variance with the form
 830 prescribed by the department. The county officer may continue to
 831 use such an approved form until the law that specifies the form
 832 is amended or repealed or until the officer receives written
 833 disapproval from the executive director.

834 (11) At the request of the governing body of the county,
 835 the property appraiser shall mail an additional form to each
 836 taxpayer within his or her jurisdiction along with the notice of
 837 proposed taxes. Any costs related to this form shall be borne by
 838 the county. The form may include information regarding the
 839 proposed budget for the county, inform taxpayers of the portion
 840 of the proposed nonvoted county millage rate which is

841 attributable to each constitutional officer and the county
 842 commission, and include:
 843 (a) The dollar value of proposed nonvoted property tax
 844 funding for each constitutional officer and the county
 845 commission;
 846 (b) The percent of the total nonvoted property tax
 847 revenues designated for each constitutional officer and the
 848 county commission in the proposed budget; and
 849 (c) The proposed nonvoted millage rate for each
 850 constitutional officer and the county commission, calculated by
 851 multiplying the percent of the total nonvoted property tax
 852 revenues designated for each entity by the county's proposed
 853 nonvoted millage rate.
 854 Section 26. Effective July 1, 2012, subsection (2) of
 855 section 218.12, Florida Statutes, is amended to read:
 856 218.12 Appropriations to offset reductions in ad valorem
 857 tax revenue in fiscally constrained counties.—
 858 (2) On or before November 15 of each year, ~~beginning in~~
 859 ~~2008,~~ each fiscally constrained county shall apply to the
 860 Department of Revenue to participate in the distribution of the
 861 appropriation and provide documentation supporting the county's
 862 estimated reduction in ad valorem tax revenue in the form and
 863 manner prescribed by the Department of Revenue. The
 864 documentation must include an estimate of the reduction in
 865 taxable value directly attributable to revisions of Art. VII of
 866 the State Constitution for all county taxing jurisdictions
 867 within the county and shall be prepared by the property
 868 appraiser in each fiscally constrained county. The documentation

869 must also include the county millage rates applicable in all
 870 such jurisdictions for both the current year and the prior year;
 871 rolled-back rates, determined as provided in s. 200.065, for
 872 each county taxing jurisdiction; and maximum millage rates that
 873 could have been levied by majority vote pursuant to s.
 874 200.065(5) ~~s. 200.185~~. For purposes of this section, each
 875 fiscally constrained county's reduction in ad valorem tax
 876 revenue shall be calculated as 95 percent of the estimated
 877 reduction in taxable value times the lesser of the 2007
 878 applicable millage rate or the applicable millage rate for each
 879 county taxing jurisdiction in the current ~~prior~~ year. If a
 880 fiscally constrained county fails to apply for the distribution,
 881 its share shall revert to the fund from which the appropriation
 882 was made.

883 Section 27. Effective July 1, 2012, subsection (2) of
 884 section 218.125, Florida Statutes, is amended to read:

885 218.125 Offset for tax loss associated with certain
 886 constitutional amendments affecting fiscally constrained
 887 counties.-

888 (2) On or before November 15 of each year, ~~beginning in~~
 889 ~~2010,~~ each fiscally constrained county shall apply to the
 890 Department of Revenue to participate in the distribution of the
 891 appropriation and provide documentation supporting the county's
 892 estimated reduction in ad valorem tax revenue in the form and
 893 manner prescribed by the Department of Revenue. The
 894 documentation must include an estimate of the reduction in
 895 taxable value directly attributable to revisions of Art. VII of
 896 the State Constitution for all county taxing jurisdictions

897 within the county and shall be prepared by the property
 898 appraiser in each fiscally constrained county. The documentation
 899 must also include the county millage rates applicable in all
 900 such jurisdictions for the current year and the prior year,
 901 rolled-back rates determined as provided in s. 200.065 for each
 902 county taxing jurisdiction, and maximum millage rates that could
 903 have been levied by majority vote pursuant to s. 200.065(5)
 904 ~~200.185~~. For purposes of this section, each fiscally constrained
 905 county's reduction in ad valorem tax revenue shall be calculated
 906 as 95 percent of the estimated reduction in taxable value
 907 multiplied by the lesser of the 2010 applicable millage rate or
 908 the applicable millage rate for each county taxing jurisdiction
 909 in the current ~~prior~~ year. If a fiscally constrained county
 910 fails to apply for the distribution, its share shall revert to
 911 the fund from which the appropriation was made.

912 Section 28. Except as otherwise expressly provided in this
 913 act, this act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB FTC 12-01 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing PCB: Finance & Tax Committee
2 Representative Caldwell offered the following:

3
4 **Amendment (with title amendment)**

5 Remove line 531 and insert:

6 (1) (a) and (b) shall be applied before and other homestead
7 exemptions which shall then be applied

8
9 -----
10 **T I T L E A M E N D M E N T**

11 Remove line 67 and insert:

12 ad valorem tax homestead exemptions under s. 196.031(1)(a) and
13 (b) be applied before other homestead exemptions which then are
14 to be applied in the order that
15

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FTC 12-02 General Tax Administration
SPONSOR(S): Finance & Tax Committee
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--------------------------------------|--------|-------------------|--|
| Orig. Comm.: Finance & Tax Committee | | Wilson <i>WJW</i> | Langston <i>DL</i> |

SUMMARY ANALYSIS

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

The bill:

- Clarifies the application of current criminal penalties regarding any person who willfully fails to collect a tax or fee, who makes a false or fraudulent return with willful intent, or who engages in acts that require a certificate of registration and "fails or refuses" to register or willfully fails to register after the Department provides notice.
- Provides that the Department can require individuals and entities seeking to obtain a dealer's certificate of registration to post a cash deposit, bond, or other security if that business will be operated at an identical location of a previous business that would have been required to post such security. This requirement can be waived if absence of tax liability or an arms-length transfer of the business can be demonstrated.
- Clarifies a provision requiring the clerks of the court to transmit all court-related collections electronically by the 10th of the month immediately following the month in which the funds are collected to conform to a similar law changes made by the Legislature in 2010.
- Provides definitions for "automated sales suppression device" or "zappers" and "phantom-ware", and criminalizes the knowing sale, purchase, installation, transfer, or possession of such software or software devices that can be used to falsify the records of electronic cash registers and other point-of-sale systems.
- Provides the Department can use driver's license images for use in establishing positive identification for tax administration purposes.
- Establishes a requirement for employers to comply with all work records requested during an audit as a prerequisite to earn the lower, unemployment tax contribution rate. The bill further standardizes the interest rate provisions for unemployment tax and makes them the same rate as is applied to other taxes administered by the Department.

The 2012 Revenue Estimating Conference (REC) has reviewed the provisions of this bill. Several provisions are estimated to have positive, but indeterminate state and local revenue impacts. One provision is estimated by the REC to have a -\$0.1 million recurring impact on the Unemployment Compensation Trust Fund beginning in FY 2012-13.

The bill shall take effect on July 1, 2012, except as otherwise provided in the bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Section 1. Failure to Collect; Penalties

Present situation

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

Proposed change

This bill amends s. 212.07(3), F.S., to clarify that a dealer who willfully fails to collect a tax or fee after receiving notice from the Department is liable for the uncollected tax or fee and subject to criminal penalties that are graduated based on the number of offenses and amount of taxes or fees that go uncollected. This section also provides that the Department may contact the dealer in violation by personal service, registered mail, or both. This section will become effective upon becoming law. This amended section is related to similar changes made in sections 2 & 4.

Section 2. Failure to Collect; Penalties

Present situation

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

Proposed change

This bill amends s. 212.12(d), F.S., to provide that a person who makes a false or fraudulent return with willful intent is liable for the uncollected taxes or fees and subject to criminal penalties that are graduated based on the number of offenses and amount of taxes or fees that go uncollected. This amended section is related to similar changes made in sections 1 & 4.

Section 3. Security Requirements for New Registrations

Present situation

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

Proposed change

This bill amends s. 212.14(4), F.S., to define which individuals or entities the Department can require to produce a cash deposit, bond, or other security. Included in this list of individuals and entities are not only those who had an ownership interest or a controlling interests in a business that would otherwise be liable for posting a cash deposit, bond, or other security, but those individuals and entities seeking to obtain a dealer's certificate of registration for a business that will be operated at an identical location of a previous business that would have otherwise been liable for posting a cash deposit, bond, or other

security. These requirements can be waived if absence of tax liability or an arms-length transfer of the business can be demonstrated. The bill further allows the Department to adopt rules necessary to administer this subsection.

Section 4. Failure to Collect; Penalties

Present situation

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

Proposed change

This bill amends s. 212.18(3)(c), F.S., to clarify that any person that engages in acts that require a certificate of registration and "fails or refuses" to register, commits a misdemeanor of the first degree. This bill also adds s. 212.18(3)(c)2., F.S., to provide that a person who willfully fails to register after the Department provides notice, commits a felony of the third degree, punishable as proscribed in law. This section further provides that the Department shall give written notice of the duty to register to the person through registered mail, personal service or both. This section will become effective upon becoming a law. This amended section is related to similar changes made in sections 1 & 2.

Section 5. Electronic Remittance and Distribution of Funds by the Clerk of Courts

Present situation

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

Proposed change

This bill amends s. 213.13(5), F.S., to require the clerks of the court to transmit all court-related collections electronically by the 10th of the month immediately following the month in which the funds are collected. This section is effective upon becoming a law and will apply retroactively to July 1, 2010.

Section 6. Automated Sales Suppression Devices or "Zappers"

Present situation

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

Proposed change

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

Section 7. Identity Confirmation; Interagency Agreements

Present situation

Currently, Department staff during an audit does not have a way to verify the identity of a business owner prior to visiting a business. In some cases, Department staff cannot be sure that the person with whom they are working during a field visit is the business owner. Under s. 322.142, F.S., the Department of Highway Safety and Motor Vehicles (DHSMV) maintains a file of the digital images and signatures of driver's license holders. Currently, these DHSMV records can be shared with the Department through an interagency agreement for child support enforcement purposes but not for other uses.

Proposed change

The bill amends s. 322.142, F.S., to allow the Department to use driver's license images for use in establishing positive identification for tax administration purposes.

Section 8. Standard Rate for Non-Compliance with Audit Record Requests; Unemployment Tax

Present situation

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

Proposed change

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

Section 9. Floating Interest Rate; Unemployment Tax

Present situation

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

Proposed change

This bill amends s. 443.141(1)(a), F.S., to adjust the interest rate applied to contributions or reimbursements unpaid on the date due. The current interest rate of 1 percent will carry on through December 31, 2012, and beginning January 1, 2013, the interest rate shall be calculated in accordance with s. 213.235, F.S., except that the rate of interest shall never be greater than 1 percent per month. This bill would reduce the interest rate provisions for unemployment tax and make them the same rate as is applied to other taxes administered by the Department. This section will become effective January 1, 2013.

Section 10. Effective Date

This act shall take effect July 1, 2012, except as expressly provided within the bill.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.07(3), F.S., clarifying when a dealer is liable for failing to collect a tax or fee and imposing criminal penalties for such failure.

Section 2: Amends s. 212.12, F.S., providing a tax liability and restating the criminal penalties for dealers who willfully make false or fraudulent tax returns.

Section 3: Amends s. 212.14(4), F.S., defining which individuals or entities the Department can require to produce a cash deposit, bond, or other security as a condition to a person obtaining a dealer's certificate of registration.

Section 4: Amends s. 212.18(3)(c), F.S., and adds s. 212.18(3)(c)2., F.S., imposing criminal penalties on a person for willfully failing to register as a dealer after the Department provides notice by personal service, mail, or both of that person's duty to register as a dealer.

Section 5: Amends s. 213.13(5), F.S., changing the date by which the clerks of the court shall transmit all court-related collections.

Section 6: Creates s. 213.295, F.S., defining sales suppression software (or "zappers") and phantom-ware and imposing criminal liability for willfully and knowingly selling, purchasing, installing, transferring, or possessing such sales suppression software or phantom-ware.

Section 7: Amends s. 322.142, F.S., allowing the Department to use identifying information in DHSMV's licensee file for use in establishing positive identification for tax administration purposes.

Section 8: Amends s. 443.131, F.S., requiring the employer to produce all work records requested by the Department as a prerequisite for that employer earning a lower, preferential unemployment contribution rate.

Section 9: Amends s. 443.141(1)(a), F.S., adjusting the interest rate applied to contributions or reimbursements unpaid on the date due and capping that interest rate at 1 percent per month.

Section 10: This act shall take effect July 1, 2012, except as expressly provided within the bill.

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:

This bill will reduce taxpayer expenses. These savings will be generated by reducing the interest rate applied to taxpayer unemployment tax contributions or reimbursements that go unpaid on the date they are due and makes it uniform to the interest rate that applied to other taxes administered by the Department.

D. FISCAL COMMENTS:

The 2012 Revenue Estimating Conference (REC) has reviewed the provisions of this bill. Several provisions are estimated to have positive, but indeterminate state and local revenue impacts. One provision is estimated by the REC to have a -\$0.1 million recurring impact on the Unemployment Compensation Trust Fund beginning in FY 2012-13.

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 revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Section 3. The Department may adopt rules necessary to administer s. 212.14(4), F.S., related to requiring a cash deposit, bond, or other security as a condition to a person obtaining or retaining a dealer's certificate of registration.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to tax administration; amending s.
3 212.07, F.S.; conforming a cross-reference to changes
4 made by the act; subjecting a dealer to monetary and
5 criminal penalties for the willful failure to collect
6 certain taxes or fees after notice of the duty to
7 collect the taxes or fees by the Department of
8 Revenue; amending s. 212.12, F.S.; deleting provisions
9 relating to the imposition of criminal penalties after
10 notice by the Department of Revenue of requirements to
11 register as a dealer or to collect taxes; making
12 technical and grammatical changes to provisions
13 specifying penalties for making a false or fraudulent
14 return with the intent to evade payment of a tax or
15 fee; amending s. 212.14, F.S.; defining the term
16 "person"; authorizing the Department of Revenue to
17 adopt rules relating to requirements for a person to
18 deposit cash, a bond, or other security with the
19 department in order to ensure compliance with sales
20 tax laws; making technical and grammatical changes;
21 amending s. 212.18, F.S.; subjecting a person to
22 criminal penalties for willfully failing to register
23 as a dealer after notice of the duty to register by
24 the Department of Revenue; making technical and
25 grammatical changes; amending s. 213.13, F.S.;
26 revising the due date for funds collected by the
27 clerks of court to be transmitted to the Department of
28 Revenue; providing retroactive application; creating

29 s. 213.295, F.S.; providing definitions; subjecting a
 30 person to criminal penalties and monetary penalties
 31 for knowingly selling or engaging in certain other
 32 actions involving an automated sales suppression
 33 device, zipper, or phantom-ware; defining sales
 34 suppression devices and phantom-ware as contraband
 35 articles under the Florida Contraband Forfeiture Act;
 36 amending s. 322.142, F.S.; authorizing the Department
 37 of Highway Safety and Motor Vehicles to release
 38 photographs or digital images to the Department of
 39 Revenue in order to identify individuals for purposes
 40 of tax administration; amending s. 443.131, F.S.;

41 imposing a requirement on employers to produce records
 42 for the Department of Economic Opportunity or its tax
 43 collection service provider as a prerequisite for a
 44 reduction in the rate of unemployment tax; amending s.
 45 443.141, F.S.; providing a method to calculate the
 46 interest rate for past due contributions and
 47 reimbursements, and delinquent, erroneous, incomplete,
 48 or insufficient reports; providing effective dates.

49
 50 Be It Enacted by the Legislature of the State of Florida:

51
 52 Section 1. Effective upon this act becoming a law,
 53 subsections (1) and (3) of section 212.07, Florida Statutes, are
 54 amended to read:

55 212.07 Sales, storage, use tax; tax added to purchase
 56 price; dealer not to absorb; liability of purchasers who cannot

57 | prove payment of the tax; penalties; general exemptions.-

58 | (1) (a) The privilege tax herein levied measured by retail
59 | sales shall be collected by the dealers from the purchaser or
60 | consumer.

61 | (b) A resale must be in strict compliance with s. 212.18
62 | and the rules and regulations, and any dealer who makes a sale
63 | for resale which is not in strict compliance with s. 212.18 and
64 | the rules and regulations shall himself or herself be liable for
65 | and pay the tax. Any dealer who makes a sale for resale shall
66 | document the exempt nature of the transaction, as established by
67 | rules promulgated by the department, by retaining a copy of the
68 | purchaser's resale certificate. In lieu of maintaining a copy of
69 | the certificate, a dealer may document, prior to the time of
70 | sale, an authorization number provided telephonically or
71 | electronically by the department, or by such other means
72 | established by rule of the department. The dealer may rely on a
73 | resale certificate issued pursuant to s. 212.18(3)(d)
74 | ~~212.18(3)(e)~~, valid at the time of receipt from the purchaser,
75 | without seeking annual verification of the resale certificate if
76 | the dealer makes recurring sales to a purchaser in the normal
77 | course of business on a continual basis. For purposes of this
78 | paragraph, "recurring sales to a purchaser in the normal course
79 | of business" refers to a sale in which the dealer extends credit
80 | to the purchaser and records the debt as an account receivable,
81 | or in which the dealer sells to a purchaser who has an
82 | established cash or C.O.D. account, similar to an open credit
83 | account. For purposes of this paragraph, purchases are made from
84 | a selling dealer on a continual basis if the selling dealer

85 makes, in the normal course of business, sales to the purchaser
 86 no less frequently than once in every 12-month period. A dealer
 87 may, through the informal protest provided for in s. 213.21 and
 88 the rules of the Department of Revenue, provide the department
 89 with evidence of the exempt status of a sale. Consumer
 90 certificates of exemption executed by those exempt entities that
 91 were registered with the department at the time of sale, resale
 92 certificates provided by purchasers who were active dealers at
 93 the time of sale, and verification by the department of a
 94 purchaser's active dealer status at the time of sale in lieu of
 95 a resale certificate shall be accepted by the department when
 96 submitted during the protest period, but may not be accepted in
 97 any proceeding under chapter 120 or any circuit court action
 98 instituted under chapter 72.

99 (c) Unless the purchaser of tangible personal property
 100 that is incorporated into tangible personal property
 101 manufactured, produced, compounded, processed, or fabricated for
 102 one's own use and subject to the tax imposed under s.
 103 212.06(1)(b) or is purchased for export under s. 212.06(5)(a)1.
 104 extends a certificate in compliance with the rules of the
 105 department, the dealer shall himself or herself be liable for
 106 and pay the tax.

107 (3) (a) A ~~Any~~ dealer who fails, neglects, or refuses to
 108 collect the tax or fees imposed under this chapter herein
 109 ~~provided, either~~ by himself or herself or through the dealer's
 110 agents or employees, ~~is,~~ in addition to the penalty of being
 111 liable for ~~and paying the tax himself or herself,~~ commits guilty
 112 ~~of~~ a misdemeanor of the first degree, punishable as provided in

113 s. 775.082 or s. 775.083.

114 (b) A dealer who willfully fails to collect a tax or fee
 115 after the department provides notice of the duty to collect the
 116 tax or fee is liable for a specific penalty of 100 percent of
 117 the uncollected tax or fee. This penalty is in addition to any
 118 other penalty that may be imposed by law. A dealer who willfully
 119 fails to collect taxes or fees totaling:

120 1. Less than \$300:

121 a. For a first offense, commits a misdemeanor of the
 122 second degree, punishable as provided in s. 775.082 or s.
 123 775.083.

124 b. For a second offense, commits a misdemeanor of the
 125 first degree, punishable as provided in s. 775.082 or s.
 126 775.083.

127 c. For a third or subsequent offense, commits a felony of
 128 the third degree, punishable as provided in s. 775.082, s.
 129 775.083, or s. 775.084.

130 2. An amount equal to \$300 or more, but less than \$20,000,
 131 commits a felony of the third degree, punishable as provided in
 132 s. 775.082, s. 775.083, or s. 775.084.

133 3. An amount equal to \$20,000 or more, but less than
 134 \$100,000, commits a felony of the second degree, punishable as
 135 provided in s. 775.082, s. 775.083, or s. 775.084.

136 4. An amount equal to \$100,000 or more, commits a felony
 137 of the first degree, punishable as provided in s. 775.082, s.
 138 775.083, or s. 775.084.

139 (c) The department shall give written notice of the duty
 140 to collect taxes or fees to the dealer by personal service, by

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141 sending notice to the dealer's last known address by registered
 142 mail, or by both personal service and mail.

143 Section 2. Effective upon this act becoming a law,
 144 paragraph (d) of subsection (2) of section 212.12, Florida
 145 Statutes, is amended to read:

146 212.12 Dealer's credit for collecting tax; penalties for
 147 noncompliance; powers of Department of Revenue in dealing with
 148 delinquents; brackets applicable to taxable transactions;
 149 records required.—

150 (2)

151 (d) A ~~Any~~ person who makes a false or fraudulent return
 152 with a willful intent to evade payment of any tax or fee imposed
 153 under this chapter ~~is; any person who, after the department's~~
 154 ~~delivery of a written notice to the person's last known address~~
 155 ~~specifically alerting the person of the requirement to register~~
 156 ~~the person's business as a dealer, intentionally fails to~~
 157 ~~register the business; and any person who, after the~~
 158 ~~department's delivery of a written notice to the person's last~~
 159 ~~known address specifically alerting the person of the~~
 160 ~~requirement to collect tax on specific transactions,~~
 161 ~~intentionally fails to collect such tax, shall, in addition to~~
 162 ~~the other penalties provided by law, be liable for a specific~~
 163 ~~penalty of 100 percent of any unreported or any uncollected tax~~
 164 ~~or fee. This penalty is in addition to any other penalty~~
 165 provided by law. A person who makes a false or fraudulent return
 166 with a willful intent to evade payment of taxes or fees
 167 totaling:

168 1. Less than \$300:

169 a. For a first offense, commits a misdemeanor of the
 170 second degree, punishable as provided in s. 775.082 or s.
 171 775.083.

172 b. For a second offense, commits a misdemeanor of the
 173 first degree, punishable as provided in s. 775.082 or s.
 174 775.083.

175 c. For a third or subsequent offense, commits a felony of
 176 the third degree, punishable as provided in s. 775.082, s.
 177 775.083, or s. 775.084.

178 2. An amount equal to \$300 or more, but less than \$20,000,
 179 commits a felony of the third degree, punishable as provided in
 180 s. 775.082, s. 775.083, or s. 775.084.

181 3. An amount equal to \$20,000 or more, but less than
 182 \$100,000, commits a felony of the second degree, punishable as
 183 provided in s. 775.082, s. 775.083, or s. 775.084.

184 4. An amount equal to \$100,000 or more, commits a felony
 185 of the first degree, punishable and, upon conviction, for fine
 186 and punishment as provided in s. 775.082, s. 775.083, or s.
 187 775.084. Delivery of written notice may be made by certified
 188 mail, or by the use of such other method as is documented as
 189 being necessary and reasonable under the circumstances. The
 190 civil and criminal penalties imposed herein for failure to
 191 comply with a written notice alerting the person of the
 192 requirement to register the person's business as a dealer or to
 193 collect tax on specific transactions shall not apply if the
 194 person timely files a written challenge to such notice in
 195 accordance with procedures established by the department by rule
 196 or the notice fails to clearly advise that failure to comply

197 ~~with or timely challenge the notice will result in the~~
 198 ~~imposition of the civil and criminal penalties imposed herein.~~

199 ~~1. If the total amount of unreported or uncollected taxes~~
 200 ~~or fees is less than \$300, the first offense resulting in~~
 201 ~~conviction is a misdemeanor of the second degree, the second~~
 202 ~~offense resulting in conviction is a misdemeanor of the first~~
 203 ~~degree, and the third and all subsequent offenses resulting in~~
 204 ~~conviction is a misdemeanor of the first degree, and the third~~
 205 ~~and all subsequent offenses resulting in conviction are felonies~~
 206 ~~of the third degree.~~

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

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

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

216 Section 3. Subsection (4) of section 212.14, Florida
 217 Statutes, is amended to read:

218 212.14 Departmental powers; hearings; distress warrants;
 219 bonds; subpoenas and subpoenas duces tecum.—

220 (4) In all cases where it is necessary to ensure
 221 compliance with ~~the provisions of~~ this chapter, the department
 222 shall require a cash deposit, bond, or other security as a
 223 condition to a person obtaining or retaining a dealer's
 224 certificate of registration under this chapter. Such bond shall

225 | be in the form and such amount as the department deems
 226 | appropriate under the particular circumstances. Every person
 227 | failing to produce such cash deposit, bond, or other security as
 228 | provided for herein shall not be entitled to obtain or retain a
 229 | dealer's certificate of registration under this chapter, and the
 230 | Department of Legal Affairs is hereby authorized to proceed by
 231 | injunction, when so requested by the Department of Revenue, to
 232 | prevent such person from doing business subject to ~~the~~
 233 | ~~provisions of~~ this chapter until such cash deposit, bond, or
 234 | other security is posted with the department, and any temporary
 235 | injunction for this purpose may be granted by any judge or
 236 | chancellor authorized by law to grant injunctions. Any security
 237 | required to be deposited may be sold by the department at public
 238 | sale if it becomes necessary so to do in order to recover any
 239 | tax, interest, or penalty due. Notice of such sale may be served
 240 | personally or by mail upon the person who deposited the ~~such~~
 241 | security. If by mail, notice sent to the last known address as
 242 | the same appears on the records of the department shall be
 243 | sufficient for the purpose of this requirement. Upon such sale,
 244 | the surplus, if any, above the amount due under this chapter
 245 | shall be returned to the person who deposited the security. The
 246 | department may adopt rules necessary to administer this
 247 | subsection. For the purpose of the cash deposit, bond, or other
 248 | security required by this subsection, the term "person" includes
 249 | those entities defined in s. 212.02(12), as well as:
 250 | (a) An individual or entity owning a controlling interest
 251 | in an entity;
 252 | (b) An individual or entity that has acquired an ownership

253 interest or a controlling interest in a business that would
 254 otherwise be liable for posting a cash deposit, bond, or other
 255 security, unless the department has determined that the
 256 individual or entity is not liable for taxes, interest, or
 257 penalties as set forth in s. 213.758; or

258 (c) An individual or entity seeking to obtain a dealer's
 259 certificate of registration for a business that will be operated
 260 at an identical location of a previous business that would
 261 otherwise have been liable for posting a cash deposit, bond, or
 262 other security, if the individual or entity fails to provide
 263 evidence that the business was acquired for consideration in an
 264 arms-length transaction.

265 Section 4. Effective upon this act becoming a law,
 266 subsection (3) of section 212.18, Florida Statutes, is amended
 267 to read:

268 212.18 Administration of law; registration of dealers;
 269 rules.—

270 (3) (a) Every person desiring to engage in or conduct
 271 business in this state as a dealer, ~~as defined in this chapter,~~
 272 or to lease, rent, or let or grant licenses in living quarters
 273 or sleeping or housekeeping accommodations in hotels, apartment
 274 houses, roominghouses, or tourist or trailer camps that are
 275 subject to tax under s. 212.03, or to lease, rent, or let or
 276 grant licenses in real property, ~~as defined in this chapter,~~ and
 277 every person who sells or receives anything of value by way of
 278 admissions, must file with the department an application for a
 279 certificate of registration for each place of business. The
 280 application must include, ~~showing~~ the names of the persons who

281 have interests in such business and their residences, the
 282 address of the business, and ~~such~~ other data reasonably required
 283 by ~~as~~ the department ~~may reasonably require~~. However, owners and
 284 operators of vending machines or newspaper rack machines are
 285 required to obtain only one certificate of registration for each
 286 county in which such machines are located. The department, by
 287 rule, may authorize a dealer that uses independent sellers to
 288 sell its merchandise to remit tax on the retail sales price
 289 charged to the ultimate consumer in lieu of having the
 290 independent seller register as a dealer and remit the tax. The
 291 department may appoint the county tax collector as the
 292 department's agent to accept applications for registrations. The
 293 application must be made to the department before the person,
 294 firm, copartnership, or corporation may engage in such business,
 295 and it must be accompanied by a registration fee of \$5. However,
 296 a registration fee is not required to accompany an application
 297 to engage in or conduct business to make mail order sales. The
 298 department may waive the registration fee for applications
 299 submitted through the department's Internet registration
 300 process.

301 (b) The department, upon receipt of such application,
 302 shall ~~will~~ grant to the applicant a separate certificate of
 303 registration for each place of business, which certificate may
 304 be canceled by the department or its designated assistants for
 305 any failure by the certificateholder to comply with ~~any of the~~
 306 ~~provisions of~~ this chapter. The certificate is not assignable
 307 and is valid only for the person, firm, copartnership, or
 308 corporation to which issued. The certificate must be placed in a

309 conspicuous place in the business or businesses for which it is
 310 issued and must be displayed at all times. Except as provided in
 311 this subsection, a ~~no~~ person may not ~~shall~~ engage in business as
 312 a dealer or in leasing, renting, or letting of or granting
 313 licenses in living quarters or sleeping or housekeeping
 314 accommodations in hotels, apartment houses, roominghouses,
 315 tourist or trailer camps, or real property, or as hereinbefore
 316 ~~defined, nor shall any person~~ sell or receive anything of value
 317 by way of admissions, without a valid ~~first having obtained such~~
 318 ~~a certificate. A~~ ~~or after such certificate has been canceled;~~ ~~no~~
 319 person may not ~~shall~~ receive a any license from any authority
 320 within the state to engage in any such business without a valid
 321 certificate ~~first having obtained such a certificate or after~~
 322 ~~such certificate has been canceled. A person may not engage~~ The
 323 ~~engaging~~ in the business of selling or leasing tangible personal
 324 property or services or as a dealer; engage, ~~as defined in this~~
 325 ~~chapter, or the engaging~~ in leasing, renting, or letting of or
 326 granting licenses in living quarters or sleeping or housekeeping
 327 accommodations in hotels, apartment houses, roominghouses, or
 328 tourist or trailer camps that are taxable under this chapter, or
 329 real property; or engage ~~the engaging~~ in the business of
 330 selling or receiving anything of value by way of admissions,
 331 without a valid ~~such~~ certificate ~~first being obtained or after~~
 332 ~~such certificate has been canceled by the department, is~~
 333 ~~prohibited.~~

334 (c)1. A ~~The failure or refusal of any person who engages~~
 335 in acts requiring a certificate of registration under this
 336 subsection who fails or refuses to register commits, firm,

337 ~~copartnership, or corporation to so qualify when required~~
 338 ~~hereunder is~~ a misdemeanor of the first degree, punishable as
 339 provided in s. 775.082 or s. 775.083. Such acts are, ~~or~~ subject
 340 to injunctive proceedings as provided by law. A person who
 341 engages in acts requiring a certificate of registration and who
 342 fails or refuses to register is also subject ~~Such failure or~~
 343 ~~refusal also subjects the offender~~ to a \$100 initial
 344 registration fee in lieu of the \$5 registration fee required by
 345 ~~authorized in~~ paragraph (a). However, the department may waive
 346 the increase in the registration fee if it finds ~~is determined~~
 347 ~~by the department~~ that the failure to register was due to
 348 reasonable cause and not to willful negligence, willful neglect,
 349 or fraud.

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

354 b. The department shall give written notice of the duty to
 355 register to the person by personal service, by sending notice by
 356 registered mail to the person's last known address, or by both
 357 personal service and mail.

358 ~~(d)(e)~~ In addition to the certificate of registration, the
 359 department shall provide to each newly registered dealer an
 360 initial resale certificate that will be valid for the remainder
 361 of the period of issuance. The department shall provide each
 362 active dealer with an annual resale certificate. For purposes of
 363 this section, the term "active dealer" means a person who is
 364 currently registered with the department and who is required to

365 file at least once during each applicable reporting period.
 366 (e)~~(d)~~ The department may revoke a any dealer's
 367 certificate of registration if ~~when~~ the dealer fails to comply
 368 with this chapter. Prior to revocation of a dealer's certificate
 369 of registration, the department must schedule an informal
 370 conference at which the dealer may present evidence regarding
 371 the department's intended revocation or enter into a compliance
 372 agreement with the department. The department must notify the
 373 dealer of its intended action and the time, place, and date of
 374 the scheduled informal conference by written notification sent
 375 by United States mail to the dealer's last known address of
 376 record furnished by the dealer on a form prescribed by the
 377 department. The dealer is required to attend the informal
 378 conference and present evidence refuting the department's
 379 intended revocation or enter into a compliance agreement with
 380 the department which resolves the dealer's failure to comply
 381 with this chapter. The department shall issue an administrative
 382 complaint under s. 120.60 if the dealer fails to attend the
 383 department's informal conference, fails to enter into a
 384 compliance agreement with the department resolving the dealer's
 385 noncompliance with this chapter, or fails to comply with the
 386 executed compliance agreement.

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

- 392 1. An exhibitor whose agreement prohibits the sale of

393 tangible personal property or services subject to the tax
 394 imposed in this chapter is not required to register as a dealer.

395 2. An exhibitor whose agreement provides for the sale at
 396 wholesale only of tangible personal property or services subject
 397 to the tax imposed in this chapter must obtain a resale
 398 certificate from the purchasing dealer but is not required to
 399 register as a dealer.

400 3. An exhibitor whose agreement authorizes the retail sale
 401 of tangible personal property or services subject to the tax
 402 imposed in this chapter must register as a dealer and collect
 403 the tax imposed under this chapter on such sales.

404 4. Any exhibitor who makes a mail order sale pursuant to
 405 s. 212.0596 must register as a dealer.

406
 407 Any person who conducts a convention or a trade show must make
 408 his or her ~~their~~ exhibitor's agreements available to the
 409 department for inspection and copying.

410 Section 5. Effective upon this act becoming a law and
 411 retroactive to July 1, 2010, subsection (5) of section 213.13,
 412 Florida Statutes, is amended to read:

413 213.13 Electronic remittance and distribution of funds
 414 collected by clerks of the court.—

415 (5) All court-related collections, including fees, fines,
 416 reimbursements, court costs, and other court-related funds that
 417 the clerks must remit to the state pursuant to law, must be
 418 transmitted electronically by the 10th ~~20th~~ day of the month
 419 immediately following the month in which the funds are
 420 collected.

421 Section 6. Effective upon this act becoming a law, section
 422 213.295, Florida Statutes, is created to read:

423 213.295 Automated sales suppression devices.-

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

425 (a) "Automated sales suppression device" or "zapper" means
 426 a software program that falsifies the electronic records of
 427 electronic cash registers or other point-of-sale systems,
 428 including, but not limited to, transaction data and transaction
 429 reports. The term includes the software program, any device that
 430 carries the software program, or an Internet link to the
 431 software program.

432 (b) "Electronic cash register" means a device that keeps a
 433 register or supporting documents through the use of an
 434 electronic device or computer system designed to record
 435 transaction data for the purpose of computing, compiling, or
 436 processing retail sales transaction data in whatever manner.

437 (c) "Phantom-ware" means a hidden programming option
 438 embedded in the operating system of an electronic cash register
 439 or hardwired into the electronic cash register that can be used
 440 to create a second set of records or may eliminate or manipulate
 441 transaction records, that may or may not be preserved in digital
 442 formats, to represent the true or manipulated record of
 443 transactions in the electronic cash register.

444 (d) "Transaction data" includes items purchased by a
 445 customer, the price for each item, a taxability determination
 446 for each item; a segregated tax amount for each of the taxed
 447 items, the amount of cash or credit tendered, the net amount
 448 returned to the customer in change, the date and time of the

449 purchase, the name, address, and identification number of the
 450 vendor, and the receipt or invoice number of the transaction.

451 (e) "Transaction report" means a report that documents,
 452 but is not limited to documenting, the sales, taxes, or fees
 453 collected, media totals, and discount voids at an electronic
 454 cash register that is printed on a cash register tape at the end
 455 of a day or a shift, or a report that documents every action at
 456 an electronic cash register and that is stored electronically.

457 (2) A person may not knowingly sell, purchase, install,
 458 transfer, possess, use, or access any automated sales
 459 suppression device, zapper, or phantom-ware.

460 (3) (a) A person who violates this section commits a felony
 461 of the third degree, punishable as provided in s. 775.082, s.
 462 775.083, or s. 775.084.

463 (b) A person who violates this section is liable for all
 464 taxes, fees, penalties, and interest due the state as a result
 465 of the use of an automated sales suppression device, zapper, or
 466 phantom-ware and shall forfeit to the state as an additional
 467 penalty all profits associated with the sale or use of an
 468 automated sales suppression device, zapper, or phantom-ware.

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

473 Section 7. Subsection (4) of section 322.142, Florida
 474 Statutes, is amended to read:

475 322.142 Color photographic or digital imaged licenses.—

476 (4) The department may maintain a film negative or print

477 file. The department shall maintain a record of the digital
 478 image and signature of the licensees, together with other data
 479 required by the department for identification and retrieval.
 480 Reproductions from the file or digital record are exempt from
 481 ~~the provisions of s. 119.07(1)~~ and shall be made and issued only
 482 for departmental administrative purposes; for the issuance of
 483 duplicate licenses; in response to law enforcement agency
 484 requests; to the Department of Business and Professional
 485 Regulation pursuant to an interagency agreement for the purpose
 486 of accessing digital images for reproduction of licenses issued
 487 by the Department of Business and Professional Regulation; to
 488 the Department of State pursuant to an interagency agreement to
 489 facilitate determinations of eligibility of voter registration
 490 applicants and registered voters in accordance with ss. 98.045
 491 and 98.075; to the Department of Revenue pursuant to an
 492 interagency agreement for use in establishing paternity and
 493 establishing, modifying, or enforcing support obligations in
 494 Title IV-D cases; to the Department of Revenue for use in
 495 establishing positive identification for tax administration
 496 purposes; to the Department of Children and Family Services
 497 pursuant to an interagency agreement to conduct protective
 498 investigations under part III of chapter 39 and chapter 415; to
 499 the Department of Children and Family Services pursuant to an
 500 interagency agreement specifying the number of employees in each
 501 of that department's regions to be granted access to the records
 502 for use as verification of identity to expedite the
 503 determination of eligibility for public assistance and for use
 504 in public assistance fraud investigations; or to the Department

505 of Financial Services pursuant to an interagency agreement to
 506 facilitate the location of owners of unclaimed property, the
 507 validation of unclaimed property claims, and the identification
 508 of fraudulent or false claims.

509 Section 8. Effective upon this act becoming a law,
 510 paragraph (h) of subsection (3) of section 443.131, Florida
 511 Statutes, is amended to read:

512 443.131 Contributions.—

513 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT
 514 EXPERIENCE.—

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

518 1. All contributions, reimbursements, interest, and
 519 penalties incurred by the employer for wages paid by him or her
 520 in all previous calendar quarters, except the 4 calendar
 521 quarters immediately preceding the calendar quarter or calendar
 522 year for which the benefit ratio is computed, are paid; ~~and~~

523 2. The employer has produced for inspection and copying
 524 all work records in his or her possession, custody, or control
 525 which were requested by the Department of Economic Opportunity
 526 or its tax collection service provider pursuant to s.
 527 443.171(5); and

528 ~~3.2.~~ The employer entitled to a rate reduction must have
 529 at least one annual payroll as defined in subparagraph (b)1.
 530 unless the employer is eligible for additional credit under the
 531 Federal Unemployment Tax Act. If the Federal Unemployment Tax
 532 Act is amended or repealed in a manner affecting credit under

533 the federal act, this section applies only to the extent that
 534 additional credit is allowed against the payment of the tax
 535 imposed by the Federal Unemployment Tax Act.

536
 537 The tax collection service provider shall assign an earned
 538 contribution rate to an employer ~~under subparagraph 1.~~ the
 539 quarter immediately after the quarter in which all
 540 contributions, reimbursements, interest, and penalties are paid
 541 in full and all work records requested pursuant to s. 443.171(5)
 542 have been produced for inspection and copying to the Department
 543 of Economic Opportunity or the tax collection service provider.

544 Section 9. Effective January 1, 2013, paragraph (a) of
 545 subsection (1) of section 443.141, Florida Statutes, is amended
 546 to read:

547 443.141 Collection of contributions and reimbursements.—

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

550 (a) Interest.—Contributions or reimbursements unpaid on
 551 the date due bear interest at the rate of 1 percent per month
 552 through December 31, 2012. Beginning January 1, 2013, the
 553 interest rate shall be calculated in accordance with s. 213.235,
 554 except that the rate of interest shall never be greater than 1
 555 percent per month, from and after the ~~that~~ date due until
 556 payment plus accrued interest is received by the tax collection
 557 service provider, unless the service provider finds that the
 558 employing unit has good reason for failing to pay the
 559 contributions or reimbursements when due. Interest collected
 560 under this subsection must be paid into the Special Employment

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561 Security Administration Trust Fund.

562 Section 10. Except as otherwise expressly provided in this
563 act and except for this section, which shall take effect upon
564 this act becoming a law, this act shall take effect July 1,
565 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB FTC 12-02 (2012)

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing PCB: Finance & Tax Committee
2 Representative Grant offered the following:

3
4 **Amendment (with title amendment)**

5 Between lines 472 and 473, insert:

6 Section 7. Paragraph (b) of subsection (1) of section
7 220.153, Florida Statutes, is amended to read:

8 220.153 Apportionment by sales factor.—

9 (1) DEFINITIONS.—As used in this section, the term:

10 (b) "Qualified capital expenditures" means expenditures in
11 this state for purposes substantially related to a business's
12 production or sale of goods or services. The expenditure must
13 fund the acquisition of additional real property (land,
14 buildings, including appurtenances, fixtures and fixed
15 equipment, structures, etc.), including additions, replacements,
16 major repairs, and renovations to real property which materially
17 extend its useful life or materially improve or change its
18 functional use and the furniture and equipment necessary to
19 furnish and operate a new or improved facility. The term

Amendment No.1

20 "qualified capital expenditures" does not include an expenditure
21 for a passive investment ~~or for an investment intended for the~~
22 ~~accumulation of reserves or the realization of profit for~~
23 ~~distribution to any person holding an ownership interest in the~~
24 ~~business~~. The term "qualified capital expenditures" does not
25 include expenditures to acquire an existing business or
26 expenditures in excess of \$125 million to acquire land or
27 buildings.

28 -----

29 **T I T L E A M E N D M E N T**

30 Between lines 35 and 36, insert:
31 amending s. 220.153, F.S.; redefining the term "qualified
32 capital expenditures" for purposes of apportionment by sales
33 factor;



34

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FTC 12-03 Corporate Income Tax

SPONSOR(S): Finance & Tax Committee

TIED BILLS: IDEN./SIM. BILLS:

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

SUMMARY ANALYSIS

Florida imposes a 5.5% tax on the taxable income of corporations doing business in Florida. The determination of taxable income for Florida tax purposes begins with the taxable income used for federal income tax purposes. This means that a corporation paying taxes in Florida generally receives the same benefits from deductions allowed in determining its federal taxable income. Florida maintains this relationship by each year adopting the Federal Internal Revenue Code as it exists on January 1 of the year in question. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income. The bill adopting the federal code is commonly referred to as the "piggyback bill."

The bill updates the Florida Income Tax Code to reflect changes Congress made to the U.S. Internal Revenue Code of 1986 by adopting the Internal Revenue Code as in effect on January 1, 2012. The change will apply retroactively to January 1, 2012.

The Revenue Estimating Conference has not yet estimated the revenue impact of the bill.

The bill is effective upon becoming law and applies retroactively to January 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida imposes a 5.5% tax on the taxable income of corporations doing business in Florida.¹ For simplicity's sake, the determination of taxable income for Florida tax purposes begins with the taxable income used for federal income tax purposes.² This means that a corporation paying taxes in Florida generally receives the same benefits from deductions allowed in determining its federal taxable income. With federal taxable income as a starting point, Florida law then requires a variety of additions and subtractions to reflect Florida-specific policies to determine Florida taxable income.

Florida maintains this relationship by each year adopting the Federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income. The bill adopting the federal code is commonly referred to as the "piggyback bill."

Proposed Changes

The bill updates the Florida Income Tax Code to reflect changes Congress made to the U.S. Internal Revenue Code of 1986 by adopting the Internal Revenue Code as in effect on January 1, 2012. The change will apply retroactively to January 1, 2012.

B. SECTION DIRECTORY:

Section 1: Amends ss. 220.03(1) and (2), F.S., to update the version of the internal revenue code adopted by ch. 220, F.S., from 2011 to 2012.

Section 2: Provides that the bill is effective upon becoming law and operates retroactively to January 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has not yet estimated the revenue impact of the bill.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not yet estimated the revenue impact of the bill. However, the bill has no revenue impact on local governments.

2. Expenditures:

None.

¹ Section 220.11, F.S.

² Sections 220.12 and 220.13, F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the corporate income tax; amending
 3 s. 220.03, F.S.; adopting the 2012 version of the
 4 Internal Revenue Code for purposes of ch. 220, F.S.;
 5 providing for retroactive operation; providing an
 6 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, 2012 ~~2011~~, 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 shall have the same meaning
 25 as when used in a comparable context in the Internal Revenue
 26 Code 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, 2012 ~~2011~~. However, if subsection (3) is implemented, the

PCB FTC 12-03

ORIGINAL

2012

29 | meaning of any term shall be taken at the time the term is
30 | applied under this code.

31 | Section 2. This act shall take effect upon becoming a law
32 | and shall operate retroactively to January 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FTC 12-07 Economic Development
SPONSOR(S): Finance & Tax Committee
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: Orig. Comm.: Finance & Tax Committee, Aldridge, Langston

SUMMARY ANALYSIS

The bill contains several provisions designed to encourage economic development in Florida. These are:

New Markets Development Program

The bill increases the total amount of tax credits available to be allocated for the program from \$97.5 million to \$195 million. The bill also increases from six to seven the number of years that a qualified community development entity is prohibited from making cash interest payments in excess of their operating income on long term debt securities issued as qualified investments.

Sales Tax Exemptions

The bill modifies several sales tax exemptions and creates a new one:

- The current sales tax exemption for electricity used for production or processing of agricultural products on the farm is expanded to include electricity used directly or indirectly in a packinghouse where fruits and vegetables are packed or otherwise prepared for market or shipment.
• The exemption qualification threshold for increase in productive output in the current sales tax exemption for industrial machinery and equipment used by an expanding business is lowered from 10 percent to 5 percent.
• The current minimum aircraft weight requirement for the sales tax exemptions on repair and maintenance parts and labor for aircraft is lowered from 15,000 pounds maximum certified takeoff weight to 2,000 pounds maximum certified takeoff weight.
• A new sales tax exemption is created for the purchase of certain chemicals, machinery, parts, and equipment used and consumed in the manufacture or fabrication of aircraft engines and gas turbine engines.

Entertainment Industry Financial Incentive Program

The bill removes the prohibition on allowing television pilots into the general production queue if more than 25 percent of credits over the history of the program have been granted to television. The bill also creates a requirement that a production wishing to claim credits for expenditures related to principal photography must have at least 50 percent of principal photography shooting days spent within Florida or must have spent at least \$10 million on qualified production expenditures within this state.

Cigarette Tax Distributions

The bill provides that beginning July 1, 2012, through June 30, 2020:

- One percent of net cigarette tax collections will be directed to be used by the Department of Health in conjunction with the Sanford-Burnham Medical Research Institute for biomedical research.
• The current H. Lee Moffitt Cancer Center and Research Institute funding distribution will increase from 1.47 percent to 2.75 percent of net cigarette tax collections.

Enterprise Zones

The bill permits Charlotte and Citrus Counties to apply for designation of enterprise zones.

Corporate Income Tax Exemption

The bill increases the current corporate income tax exemption from net income from \$25,000 to \$50,000.

Estimated FY 2012-13 revenue impacts of the bill are -\$48.1 million (-\$115.5 million recurring) to the state, and -\$6.9 million (-\$13.2 million recurring) to local governments. Also see FISCAL ANALYSIS section for details.

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

STORAGE NAME: pcb07.FTC.DOCX

DATE: 1/25/2012

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

New Markets Development Program

Current Situation

Under the New Markets Development Program, federally-certified Community Development Entities (CDE), which have entered into allocation agreements with the U.S. Treasury, have the ability to apply to the Department of Economic Opportunity (DEO) for a certification of Florida tax credits. The CDE must show that it is prepared to invest capital into qualified businesses in Florida's low-income communities. The certification process includes proof of the CDE's eligibility, identification of its investors, description of the investments to be raised by the CDE, information regarding how the investments will be used, and a description of the CDE's efforts to partner with local community-based groups. DEO is also able to request additional information needed to verify continued certification. DEO certifies qualified applications on a first-come, first-served basis. Once DEO certifies a CDE's qualified equity investment, the CDE has 30 days to raise its investment capital (the qualified equity investment) and then 12 months to invest a minimum of 85 percent of the purchase price in qualified low-income investments. Thereafter, the CDE must annually report to DEO information including:

- Audited financial statements;
- The industries for the investments;
- The counties investments were made in; the number of jobs created; and
- Verification that the average wages paid are at least equal to 115 percent of the federal poverty income guidelines for a family of four.

Any failure by a CDE to follow either Florida or federal law may result in the state recapturing tax credits claimed, together with interest and penalties.

Current law prohibits a CDE from making cash payments on long-term debt securities that are qualified investments in excess of the CDE's operating income for six years following the issuance of the security. Current administration of the program requires interest payments to be deducted from operating income for purposes of the above determination, which creates an artificial limitation on the ability of CDEs to make interest payments.

Tax Credits

The New Markets Tax Credit Program (NMTC) allows a tax credit to be taken against corporate income tax or insurance premium tax. This credit may be claimed after the investment has been made and held for a minimum of two years. Therefore, no credit can be claimed in the first two years after the investment has been made. In year three the credit is worth seven percent of the investment, and from the fourth year through the seventh year the credit is worth eight percent. Over seven years this credit totals 39 percent of the total investment. Any unused portion of the tax credit may be carried forward for future tax years; however, all tax credits expire on December 31, 2022. The program has a cap of \$97.5 million on the total of tax credits allowed to be allocated to all investments. No more than \$17.5 million in tax credits may be claimed in the third fiscal year and no more than \$20 million in tax credits may be claimed in any of the subsequent four fiscal years. The NMTC does not allow the transfer or sale of tax credits, but does allow a tax credit to "travel" with the purchase of an investment to a new owner.

Federal New Markets Tax Credit

The State New Markets Development Program was mirrored after the federal program. The Federal New Markets Tax Credit¹ (NMTC) Program permits taxpayers to receive a credit against federal income taxes for making qualified equity investments in designated CDEs. The CDE must in turn invest the qualified equity investments in low-income communities. The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a seven-year period. In each of the first three years, the investor receives a credit equal to five percent of the total amount paid for the stock or capital interest at the time of purchase. For the final four years, the value of the credit is six percent annually. Investors may not redeem their investments in CDEs prior to the conclusion of the seven-year period. An organization wishing to receive allocations under the federal NMTC Program must be certified as a CDE by the US Department of Treasury. To qualify as a CDE, an organization must:

- Be a domestic corporation or partnership at the time of the certification application;
- Demonstrate a primary mission of serving, or providing investment capital for low-income communities or low-income persons; and
- Maintain accountability to residents of low-income communities through representation on a governing board of or advisory board to the entity.

As stated above, both the federal program and the state program provide credits totaling 39 percent of the investment over a seven year period. Therefore, a qualified taxpayer with a qualified investment approved for both the federal and state program could receive 78 percent of the purchase price of the investment in tax credits over seven years. In addition to the tax credits that are received, the investor also has the potential to receive benefit from the results of the investment and eventual return of their principal.

Proposed Changes

The bill amends s. 288.9914(3), F.S., increasing the total amount of tax credits available to be allocated for the existence of the program from \$97.5 million to \$195 million, also increasing the amount of tax credits available in a single year from \$20 million to \$40 million.

The bill also amends s. 288.9915(1), F.S., increasing from six to seven the number of years that a qualified community development entity is prohibited from making cash interest payments in excess of their operating income on long term debt securities issued as qualified investments. The bill further provides that interest expense on debt securities will not be included in the calculation of operating income for purposes of the above limitation.

Electricity used in Packinghouses Sales Tax Exemption

Current Situation

Generally, the sale of electrical power or energy in Florida for non-residential purposes is subject to sales tax at the rate of seven percent.² Section 212.08(5)(e), F.S., provides an exemption from this tax for electricity used directly or indirectly for production or processing of agricultural products on the farm, including electricity used for packing fresh fruit and vegetables in a packinghouse located on a farm.

Proposed Changes

The bill amends s. 212.08(5)(e), F.S., to specifically provide that electricity used directly or indirectly in a packinghouse is also exempt from the taxes imposed by ch. 212, F.S. The bill defines a

¹ Federal New Markets Tax Credit Program. http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5 (last visited January 29, 2012)

² Section 212.05(1)(e)1.c., F.S.

packinghouse to mean any building or structure where fruits and vegetables are packed or otherwise prepared for market or shipment in fresh form for wholesale distribution.

The bill specifies that the tax exemption does not apply to electricity used in buildings or structures where agricultural products are sold at retail.

Industrial Machinery and Equipment used by an Expanding Business Sales Tax Exemption

Current Situation

Generally, the sale at retail of tangible personal property, including industrial machinery and equipment, in Florida is subject to sales tax.³ Section 212.08(5)(b)2., provides an exemption for the purchase of industrial machinery and equipment by an expanding business under specified conditions:

- The industrial machinery and equipment must be purchased for exclusive use by an expanding facility engaged in spaceport activities or for use in expanding manufacturing facilities or plant units that manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state, and must be used to increase the productive output of the expanded facility or business by not less than 10 percent, following the complete installation of the industrial machinery and equipment.
- "Productive output" is defined as the number of units produced by a single plant, product line, or operation in a single continuous 12-month period.⁴
- "Industrial machinery and equipment" is defined as tangible personal property or other property that has a depreciable life of three years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities.⁵

Proposed Changes

The bill reduces from 10 percent to 5 percent the required increase in productive output in order to qualify for the exemption.

Aircraft Engine and Gas Turbine Engine Sales Tax Exemption

Current Situation

Generally, the sale at retail of tangible personal property in Florida is subject to sales tax.⁶ This includes the sale or use of items consumed in manufacturing and fabricating aircraft engines and gas turbine engines. Items that become component parts of engines can be purchased tax exempt, as purchases for resale. Gas turbine engines are used in a variety of applications, including power generation, marine activities, and aviation.

Proposed Changes

The bill creates an exemption from the tax imposed under ch. 212, F.S., for chemicals, machinery, parts, and equipment used and consumed in the manufacture or fabrication of aircraft engines and gas turbine engines, including cores, electrical discharge machining supplies, brass electrodes, ceramic guides, reamers, grinding and deburring wheels, Norton vortex wheels, argon, nitrogen, helium, fluid abrasive cutters, solvents and soaps, boroscopes, penetrants, patterns, dies, and molds consumed in the production of castings.

³ Section 212.05(1)(a), F.S.

⁴ Section 212.08(5)(b)6.b., F.S.

⁵ Section 212.08(5)(b)6.a., F.S. This statute also specifies certain items that are included and/or excluded from the definition.

⁶ Section 212.05(1)(a), F.S.

Aircraft Repair and Maintenance Parts, Labor, and Equipment Sales Tax Exemptions

Current Situation

Generally, the retail sale of repair parts and labor are subject to sales tax in Florida.⁷

Section 212.08(7)(ee), F.S., provides a exemptions for aircraft repair and maintenance labor charges for “qualified aircraft”,⁸ for aircraft of more than 15,000 pounds maximum certified takeoff weight, and for rotary wing aircraft of more than 10,000 pounds maximum certified takeoff weight.

Section 212.08(7)(rr), F.S., provides an exemption for equipment, parts, and replacement engines used in aircraft repair and maintenance for “qualified aircraft”, for aircraft of more than 15,000 pounds maximum certified takeoff weight, and for rotary wing aircraft of more than 10,300 pounds maximum certified takeoff weight.

Proposed Changes

The bill changes one of the criteria for these exemptions by lowering the weight requirement for aircraft from being required to be more than 15,000 pounds maximum certified takeoff weight to being more than 2,000 pounds maximum certified takeoff weight. The bill does not affect the current exemptions for qualified aircrafts or rotary wing aircraft.

Entertainment Industry Financial Incentive Program

Current Situation

The Office of Film and Entertainment (“OFE”) currently administers the Entertainment Industry Financial Incentive Program, which awards transferrable tax credits for certain expenditures associated with film, television, and digital media productions. Generally, the credits are 20 percent of qualified expenditures, with additional amounts available in certain circumstances. Sections 288.1254 and 288.1258, F.S., govern the administration of this incentive program.

The aggregate amount of tax credits authorized is \$53.5 million for fiscal year 2010-11, \$74.5 million for fiscal year 2011-12, and \$42 million for each of fiscal years 2012-13, 2013-14 and 2014-15. Any portion of the maximum annual amount of tax credits that is not certified as of the end of a fiscal year shall be carried forward and made available for certification during the following two fiscal years. If the total amount of certified credits applied for in any particular fiscal year exceeds the aggregate amount of credits authorized, such excess must be treated as having been applied for on the first day of the next fiscal year in which credits remain available for allocation. Any tax credits awarded to a certified production company may be carried forward for a maximum of five years from the date of the award.

Queues

There are currently three separate categories, or “queues” of productions eligible for the tax credit.

General Production Queue

- Ninety-four percent of tax credits authorized in any state fiscal year must go to this queue. A qualified production that demonstrates a minimum of \$625,000 in qualified expenditures is

⁷ Sections 212.05(1)(a) and 212.02(16), F.S.

⁸ “Qualified aircraft” are certain aircraft of less than 10,000 pounds maximum certified takeoff weight. See Section 212.02(33), F.S. To be eligible for the exemptions under s. 212.08(7), F.S., qualified aircraft purchasers or lessees must also comply with s. 212.0801, F.S., requiring participating in university flight training or research programs.

eligible for tax credits equal to 20 percent of its actual qualified expenditures, up to a maximum of \$8 million in credits.

- A qualified production spanning multiple state fiscal years may combine qualified expenditures from such fiscal years to satisfy the \$625,000 threshold. Certain off-season productions are eligible for an additional five percent tax credit. Any production that spends at least 85 percent of its expenditures within an “underutilized region” may receive an additional five percent tax credit. The program also provides an additional 15 percent credit on qualified expenditures that are compensation paid to specified students. There is a five percent bonus credit for filming at least 50 percent of principal photography at a “qualified production facility”.
- A qualified high-impact television series is allowed first position in this queue under certain circumstances. High impact television series are allowed to apply for no more two successive seasons of credits even if the second season has not yet been picked up by a network.
- Any new television series or television pilot is prohibited from being allowed into the general production queue if more than 25 percent of credits over the history of the program have been granted to television. This provision is currently binding in effect.

Commercial and Music Video Queue

- Three percent of tax credits authorized in any state fiscal year must go to this queue.
- The credit is 20 percent of qualified expenditures, up to a maximum of \$500,000, if:
 - A minimum of \$100,000 in qualified expenditures per commercial or music video; and
 - A total of \$500,000 in qualified expenditures.
- Surplus tax credits remaining in this queue at the end of the fiscal year rollover into the new fiscal year under the general production queue.

Independent and Emerging Media Production Queue

- Three percent of tax credits authorized in any state fiscal year must go to this queue.
- Excludes commercials, infomercials and music videos.
- Any qualified production, excluding commercials, infomercials, or music videos, that demonstrates at least \$100,000, but not more than \$625,000, in total qualified expenditures is eligible for tax credits equal to 20 percent of its actual qualified expenditures.

Proposed Changes

General Production Queue

The bill removes the prohibition on allowing television pilots into the general production queue if more than 25 percent of credits over the history of the program have been granted to television.

The bill creates a requirement that a production wishing to claim credits for expenditures related to principal photography must have at least 50 percent of principal photography shooting days spent within Florida or must have spent at least \$10 million on qualified production expenditures within this state.

Cigarette Tax

Current Situation

Chapter 210, F.S., provides for the taxation of tobacco products. Taxes are imposed on the sale of cigarettes and other non-cigar tobacco products in Florida. For cigarettes of a common size, the tax rate is \$0.339 per pack. Additionally, a \$1.00 surcharge per pack of common size cigarettes is

imposed. For other tobacco products, the tax is at 25% of wholesale price, with an additional surcharge of 60% of wholesale price. The cigarette tax is collected by the Department of Business and Professional Regulation and deposited into Cigarette Tax Collection Trust Fund.

Section 210.20(2), F.S., provides for monthly distribution from the cigarette tax (not the surcharge) as follows:

Distribution from total collections:

- 8 percent to General Revenue Service Charge⁹; and
- 0.9 percent to the Alcoholic Beverage and Tobacco Trust Fund¹⁰.

Distribution from remaining collections:

- 2.9 percent to Revenue Sharing Trust Fund for Counties;
- 29.3 percent to Public Medical Assistance Trust Fund;
- 1.47 percent to Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute; and
- The remainder of funds to General Revenue.

Below is the distribution of the cigarette tax by funding source:

Distribution from Cigarette Tax (millions)

| Fiscal Year | Total Distribution* | General Revenue** | County Revenue Sharing | Public Medical Assistance Trust Fund | Moffitt Cancer Center |
|-------------|---------------------|-------------------|------------------------|--------------------------------------|-----------------------|
| 2010-11 | 308.8 | 214.1 | 8.2 | 80.7 | 5.6 |
| 2009-10 | 298.2 | 204.2 | 8.0 | 80.3 | 5.6 |
| 2008-09 | 415.1 | 208.9 | 11.1 | 112.3 | 5.7 |
| 2007-08 | 406.3 | 269.2 | 10.9 | 110.3 | 10.8 |
| 2006-07 | 417.4 | 277.0 | 11.2 | 113.2 | 15.9 |

* Distributions do not include refunds or administrative costs.

** Includes an 8 percent General Revenue Service Charge.¹¹

Proposed Changes

The bill creates s. 210.20(2)(c), F.S., to provide that beginning July 1, 2012, through June 30, 2020, one percent of net cigarette tax collections will be directed to the Biomedical Research Trust Fund. These funds will be utilized by the Department of Health and the Sanford-Burnham Medical Research Institute to establish activities and grant funding for biomedical research.

The bill also amends s. 210.20(2)(b), F.S., to provide that beginning July 1, 2012, through June 30, 2020, the Moffitt Center funding distribution will increase from 1.47 percent to 2.75 percent of net cigarette tax collections. Also, the bill adds to the list of allowable uses of the funds to include:

⁹Section 215.20, F.S.

¹⁰Section 210.02, F.S.

¹¹Section 215.20, F.S.

- Financing, operating, and maintaining clinical and related facilities;
- Furnishing, equipping, operating, and maintaining other properties owned or leased by the Moffitt Center; and
- Paying costs incurred in connection with purchasing, financing, operating, and maintain such equipment, facilities, and properties.

The bill removes from statute a reference to a cancer research facility at the University of South Florida being adjacent to Moffitt.

The bill amends s. 210.201, F.S., to conform to similar changes in s. 210.20, F.S., related to Moffitt facilities funding proceeds and usage described above.

Enterprise Zones

Current Situation

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 59 enterprise zones.

Designation Process

Sections 290.001-290.016, F.S., authorize the creation of an enterprise zone and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that an area:

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
- Can be revitalized through the inducement of the private sector.

The Department of Economic Opportunity (DEO) is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

As outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least eight, and no more than 13, members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and
- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Pursuant to s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area;
- Describe how the community's social and human resources—transportation, housing, community development, public safety, and education and environmental concerns—will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Available Incentives

Florida's enterprise zones qualify for various incentives from local governments. Examples include: utility tax abatement, reduction of local business taxes, reduced building permit fees or land development fees, and local funds for capital projects.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an EZ: Provides a refund for sales taxes paid on the purchase of certain building materials, up to \$5,000 or 97 percent of the tax paid, whichever is less.¹²
- Business Property Used in EZ: Provides a refund for sales taxes paid on the purchase of certain equipment, up to \$5,000, or 97 percent of the tax paid, whichever is less.¹³
- EZ Jobs Credit against Sales Tax: Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the EZ.¹⁴
- Rural EZ Jobs Credit against Sales Tax: Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees if the business is within a rural EZ.¹⁵
- Community Contribution Tax Credit: Provides a sales tax refund for 50 percent of donations made to local community development projects.¹⁶
- Electrical Energy Used in an EZ: Provides a 50 or 100 sales tax exemption to qualified businesses located within an EZ on the purchase of electrical energy.¹⁷

Available state corporate income tax incentives for enterprise zones include:

- EZ Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the EZ.¹⁸

¹² Section 212.08(5)(g), F.S.

¹³ Section 212.08(5)(h), F.S.

¹⁴ Section 212.096, F.S.

¹⁵ Id., Section 290.004, F.S.

¹⁶ Section 212.08(5)(p), F.S.

¹⁷ Section 212.08(15), F.S.

¹⁸ Section 220.181, F.S.

- Rural EZ Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees if the business is within a rural EZ.¹⁹
- EZ Property Tax Credit: Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.²⁰
- Community Contribution Tax Credit: Provides a 50 percent credit against Florida corporate income tax for donations made to local community development projects.²¹

OPPAGA Report on Enterprise Zones

The Office of Program Policy Analysis and Government Accountability released a report in January 2011 finding that most enterprise zone activity occurs in a few number of counties. The report also found that program participation remains relatively low in most enterprise zones, which limits the progress toward achieving the legislative goals of revitalizing distressed areas and increasing employment of area residents. The report made several recommendations related to the viability of the program, suggesting that the Legislature could:

- Encourage more participation by lowering incentive eligibility thresholds;
- Focus on job creation by eliminating all incentives except jobs tax credits;
- Suspend the program for a year;
- Repeal the program entirely; or
- Allow it to sunset under current law in 2015.²²

Proposed Changes

The bill provides authority to Charlotte County to apply to DEO for designation of an enterprise zone of up to 20 square miles. The enterprise zone application must be submitted to DEO by December 31, 2012. DEO will determine the initial effective date of the enterprise zone.

The bill also provides authority to Citrus County to apply to DEO for designation of an enterprise zone. The enterprise zone application must be submitted to DEO by December 31, 2012. DEO will determine the initial effective date of the enterprise zone.

Corporate Income Tax Exemption

Current Situation

Florida imposes a 5.5% tax on the net income of corporations doing business in Florida.²³ Section 220.14, F.S., exempts \$25,000 of net income from the corporate income tax.

Proposed Changes

For taxable years beginning January 1, 2013, the bill increases from \$25,000 to \$50,000 the amount of corporate income that is exempt from the corporate income tax.

B. SECTION DIRECTORY:

¹⁹ Id., Section 290.004, F.S.

²⁰ Section 220.182, F.S.

²¹ Section 220.183, F.S.

²² Report no. 11-01- Few Businesses Take Advantage of Enterprise Zone Benefits; the Legislature Could Consider Several Options to Modify the Program, January 2011. Office of Program Policy Analysis and Government Accountability. Report at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-01> (last visited 1/29/12).

²³ Section 220.11, F.S.

- Section 1: Amends s. 210.20(2)(b) and creates s. 210.20(2)(c), F.S., providing for distribution of funds.
- Section 2: Amends s. 210.201, F.S., conforming specified facilities funding proceeds and usage to similar provisions found in s. 210.20 F.S.
- Section 3: Amends s. 212.08(5)(e) and ss. 212.08(7)(ee) and (rr), F.S., and creates s. 212.08(7)(hhh), F.S., changing a requirement for a sales tax exemption on the purchase of electricity, and changing a requirement for sales tax exemptions for specified aircraft repair and maintenance parts and labor, and providing a sales tax exemption for specified aircraft engines and gas turbine engines.
- Section 4: Amends s. 212.08(5)(b), F.S., changing a requirement for a sales tax exemption for industrial machinery and equipment purchased by an expanding business.
- Section 5: Amends s. 220.14(1), F.S., increasing the corporate income tax exemption amount.
- Section 6: Amends s. 220.63(3), F.S., increasing the franchise tax imposed on banks and savings associations tax exemption amount.
- Section 7: Amends s. 288.1254(4), F.S., amending Entertainment Industry Financial Incentive Program tax credit eligibility.
- Section 8: Amends s. 288.9914(3), F.S., increasing the cumulative amount of tax credits available under the New Markets program.
- Section 9: Amends s. 288.9915(1), F.S., amending the use of proceeds from qualified investments under the New Markets program.
- Section 10: Creates s. 290.00729, F.S., authorizing the creation of an enterprise zone in Charlotte County.
- Section 11: Creates s. 290.00731, F.S., authorizing the creation of an enterprise zone in Citrus County.
- Section 12: Provides emergency rulemaking authority to the Department of Revenue.
- Section 13: Provides an effective date.

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:

The bill is designed to encourage economic development in Florida.

D. FISCAL COMMENTS:

Revenue Impacts: Fiscal Year 2012-13

(All impacts from Revenue Estimating Conference unless otherwise noted)

| | State | | Local | | Total | |
|---|---------------|----------------|--------------|---------------|---------------|----------------|
| | Cash | Recur. | Cash | Recur. | Cash | Recur. |
| New Markets (1) | - | (20.0) | - | - | - | (20.0) |
| Sales Tax Exemptions (2): | | | | | | |
| Electricity/Packinghouses | (0.8) | (0.9) | (0.2) | (0.2) | (1.0) | (1.1) |
| Expanding Production M&E | (19.1) | (46.0) | (4.3) | (10.4) | (23.4) | (56.4) |
| Aircraft Maintenance & Repair | (9.2) | (10.0) | (2.1) | (2.3) | (11.3) | (12.3) |
| Aircraft and gas turbine engines | (1.2) | (1.3) | (0.3) | (0.3) | (1.5) | (1.6) |
| Entertainment Industry Incentive | - | - | - | - | - | - |
| Cigarette Tax Distributions (3) | (7.6) | (7.6) | - | - | (7.6) | (7.6) |
| Enterprise Zones: | | | | | | |
| Charlotte County | (0.2) | (0.2) | (*) | (*) | (0.2) | (0.2) |
| Citrus County | (0.1) | (0.1) | (*) | (*) | (0.1) | (0.1) |
| Corporate Income Tax Exemption | (9.9) | (29.4) | - | - | (9.9) | (29.4) |
| BILL TOTAL | (48.1) | (115.5) | (6.9) | (13.2) | (55.0) | (128.7) |

(*) Insignificant = impact less than \$50,000.
 (1) Cash impacts do not begin until FY 2015-16.
 (2) State trust fund impacts are insignificant.
 (3) Staff Estimate

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 the bill may reduce the authority that counties and municipalities have to raise revenues; however an exemption may apply because the Revenue Estimating Conference estimated that the enterprise zones would have an insignificant fiscal impact on local governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Revenue to adopt emergency rules to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled

An act relating to economic development; amending s. 210.20, F.S.; revising the payment and distribution of funds in the Cigarette Tax Collection Trust Fund; providing specified purposes for the use of funds appropriated out of the trust fund; amending s. 210.201, F.S.; authorizing moneys transferred to the Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute to be used to secure financing to pay costs for specified purposes at certain facilities and other properties; amending s. 212.08, F.S.; providing an exemption from the tax on sales, use, and other transactions for electricity used by packinghouses; defining the term "packinghouse"; expanding exemptions from the sales and use tax on labor, parts, and equipment used in repairs of certain aircraft; exempting certain items used to manufacture, produce, or modify aircraft and gas turbine engines and parts from the tax on sales, use, and other transactions; revising a condition for an exemption for machinery and equipment; amending s. 220.14, F.S.; increasing the amount of income that is exempt from taxation; amending s. 220.63, F.S.; increasing the amount of income that is exempt from the franchise tax imposed on banks and savings associations; amending s. 288.1254, F.S.; revising eligibility criteria for certain tax credits authorized under the entertainment industry financial incentive program; amending s. 288.9914, F.S.; revising limits on tax credits that

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30 may be claimed by qualified community development
 31 entities under the New Markets Development Program;
 32 amending s. 288.9915, F.S.; revising restrictions on a
 33 qualified community development entity making cash
 34 interest payments on certain long-term debt
 35 securities; creating s. 290.00729, F.S.; authorizing
 36 Charlotte County to apply to the Department of
 37 Economic Opportunity for designation of an enterprise
 38 zone; providing application requirements; authorizing
 39 the Department of Economic Opportunity to designate an
 40 enterprise zone in Charlotte County; requiring that
 41 the Department of Economic Opportunity establish the
 42 initial effective date for the enterprise zone;
 43 creating s. 290.00731, F.S.; authorizing Citrus County
 44 to apply to the Department of Economic Opportunity for
 45 designation of an enterprise zone; providing an
 46 application deadline and requirements; authorizing the
 47 Department of Economic Opportunity to designate an
 48 enterprise zone in Citrus County; requiring the
 49 Department of Economic Opportunity to establish the
 50 effective date of the enterprise zone; authorizing the
 51 Department of Revenue to adopt emergency rules;
 52 providing effective dates.

53
 54 Be It Enacted by the Legislature of the State of Florida:

55
 56 Section 1. Paragraph (b) of subsection (2) of section
 57 210.20, Florida Statutes, is amended and paragraph (c) is added
 58 to subsection (2) of that section, to read:

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59 | 210.20 Employees and assistants; distribution of funds.-

60 | (2) As collections are received by the division from such
 61 | cigarette taxes, it shall pay the same into a trust fund in the
 62 | State Treasury designated "Cigarette Tax Collection Trust Fund"
 63 | which shall be paid and distributed as follows:

64 | (b)1. Beginning January 1, 1999, and continuing for 10
 65 | years thereafter, the division shall from month to month certify
 66 | to the Chief Financial Officer the amount derived from the
 67 | cigarette tax imposed by s. 210.02, less the service charges
 68 | provided for in s. 215.20 and less 0.9 percent of the amount
 69 | derived from the cigarette tax imposed by s. 210.02, which shall
 70 | be deposited into the Alcoholic Beverage and Tobacco Trust Fund,
 71 | specifying an amount equal to 2.59 percent of the net
 72 | collections, and that amount shall be paid to the Board of
 73 | Directors of the H. Lee Moffitt Cancer Center and Research
 74 | Institute, established under s. 1004.43, by warrant drawn by the
 75 | Chief Financial Officer upon the State Treasury. These funds are
 76 | hereby appropriated monthly out of the Cigarette Tax Collection
 77 | Trust Fund, to be used for the purpose of constructing,
 78 | furnishing, and equipping a cancer research facility at the
 79 | University of South Florida adjacent to the H. Lee Moffitt
 80 | Cancer Center and Research Institute. In fiscal years 1999-2000
 81 | and thereafter with the exception of fiscal year 2008-2009, the
 82 | appropriation to the H. Lee Moffitt Cancer Center and Research
 83 | Institute authorized by this subparagraph shall not be less than
 84 | the amount that would have been paid to the H. Lee Moffitt
 85 | Cancer Center and Research Institute for fiscal year 1998-1999
 86 | had payments been made for the entire fiscal year rather than
 87 | for a 6-month period thereof.

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88 2. Beginning July 1, 2002, and continuing through June 30,
 89 2004, the division shall, in addition to the distribution
 90 authorized in subparagraph 1., from month to month certify to
 91 the Chief Financial Officer the amount derived from the
 92 cigarette tax imposed by s. 210.02, less the service charges
 93 provided for in s. 215.20 and less 0.9 percent of the amount
 94 derived from the cigarette tax imposed by s. 210.02, which shall
 95 be deposited into the Alcoholic Beverage and Tobacco Trust Fund,
 96 specifying an amount equal to 0.2632 percent of the net
 97 collections, and that amount shall be paid to the Board of
 98 Directors of the H. Lee Moffitt Cancer Center and Research
 99 Institute, established under s. 1004.43, by warrant drawn by the
 100 Chief Financial Officer. Beginning July 1, 2004, and continuing
 101 through June 30, 2012 ~~2020~~, the division shall, in addition to
 102 the distribution authorized in subparagraph 1., from month to
 103 month certify to the Chief Financial Officer the amount derived
 104 from the cigarette tax imposed by s. 210.02, less the service
 105 charges provided for in s. 215.20 and less 0.9 percent of the
 106 amount derived from the cigarette tax imposed by s. 210.02,
 107 which shall be deposited into the Alcoholic Beverage and Tobacco
 108 Trust Fund, specifying an amount equal to 1.47 percent of the
 109 net collections, and that amount shall be paid to the Board of
 110 Directors of the H. Lee Moffitt Cancer Center and Research
 111 Institute, established under s. 1004.43, by warrant drawn by the
 112 Chief Financial Officer. Beginning July 1, 2012, and continuing
 113 through June 30, 2020, the division shall from month to month
 114 certify to the Chief Financial Officer the amount derived from
 115 the cigarette tax imposed by s. 210.02, less the service charges
 116 provided for in s. 215.20 and less 0.9 percent of the amount

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117 derived from the cigarette tax imposed by s. 210.02, which shall
 118 be deposited into the Alcoholic Beverage and Tobacco Trust Fund,
 119 specifying an amount equal to 2.75 percent of the net
 120 collections, and that amount shall be paid to the Board of
 121 Directors of the H. Lee Moffitt Cancer Center and Research
 122 Institute, established under s. 1004.43, by warrant drawn by the
 123 Chief Financial Officer. These funds are appropriated monthly
 124 out of the Cigarette Tax Collection Trust Fund, to be used for
 125 lawful purposes, including ~~the purpose of~~ constructing,
 126 furnishing, ~~and~~ equipping, financing, operating, and maintaining
 127 a cancer research and clinical and related facilities;
 128 furnishing, equipping, operating, and maintaining other
 129 properties owned or leased by ~~facility at the University of~~
 130 ~~South Florida adjacent to~~ the H. Lee Moffitt Cancer Center and
 131 Research Institute; and paying costs incurred in connection with
 132 purchasing, financing, operating, and maintaining such
 133 equipment, facilities, and properties. In fiscal years 2004-2005
 134 and thereafter, the appropriation to the H. Lee Moffitt Cancer
 135 Center and Research Institute authorized by this subparagraph
 136 shall not be less than the amount that would have been paid to
 137 the H. Lee Moffitt Cancer Center and Research Institute in
 138 fiscal year 2001-2002, had this subparagraph been in effect.

139 (c) Beginning July 1, 2012, and continuing through June
 140 30, 2020, the division shall from month to month certify to the
 141 Chief Financial Officer the amount derived from the cigarette
 142 tax imposed by s. 210.02, less the service charges provided for
 143 in s. 215.20 and less 0.9 percent of the amount derived from the
 144 cigarette tax imposed by s. 210.02, which shall be deposited
 145 into the Alcoholic Beverage and Tobacco Trust Fund, specifying

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146 an amount equal to 1 percent of the net collections, and that
 147 amount shall be deposited into the Biomedical Research Trust
 148 Fund in the Department of Health. These funds are appropriated
 149 annually in an amount not to exceed \$3 million from the
 150 Biomedical Research Trust Fund for the Department of Health and
 151 the Sanford-Burnham Medical Research Institute to work in
 152 conjunction for the purpose of establishing activities and grant
 153 opportunities in relation to biomedical research.

154 Section 2. Section 210.201, Florida Statutes, is amended
 155 to read:

156 210.201 H. Lee Moffitt Cancer Center and Research
 157 Institute facilities ~~Cancer research facility at the University~~
 158 ~~of South Florida;~~ establishment; funding.—The Board of Directors
 159 of the H. Lee Moffitt Cancer Center and Research Institute shall
 160 construct, furnish, and equip, and shall covenant to complete,
 161 the cancer research and clinical and related facilities of
 162 ~~facility at the University of South Florida adjacent to the H.~~
 163 Lee Moffitt Cancer Center and Research Institute funded with
 164 proceeds from the Cigarette Tax Collection Trust Fund pursuant
 165 to s. 210.20. Moneys transferred to the Board of Directors of
 166 the H. Lee Moffitt Cancer Center and Research Institute pursuant
 167 to s. 210.20 ~~may shall~~ be used to secure financing to pay costs
 168 related to constructing, furnishing, ~~and~~ equipping, operating,
 169 and maintaining the cancer research and clinical and related
 170 facilities; furnishing, equipping, operating, and maintaining
 171 other leased or owned properties; and paying costs incurred in
 172 connection with purchasing, financing, operating, and
 173 maintaining such equipment, facilities, and properties as
 174 provided in s. 210.20 ~~facility.~~ Such financing may include the

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175 issuance of tax-exempt bonds or other forms of indebtedness by a
 176 local authority, municipality, or county pursuant to parts II
 177 and III of chapter 159. Such bonds shall not constitute state
 178 bonds for purposes of s. 11, Art. VII of the State Constitution,
 179 but shall constitute bonds of a "local agency," as defined in s.
 180 159.27(4). The cigarette tax dollars pledged to facilities ~~this~~
 181 ~~facility~~ pursuant to s. 210.20 may be replaced annually by the
 182 Legislature from tobacco litigation settlement proceeds.

183 Section 3. Paragraph (e) of subsection (5) and paragraphs
 184 (ee) and (rr) of subsection (7) of section 212.08, Florida
 185 Statutes, are amended, and paragraph (hhh) is added to
 186 subsection (7) of that section, to read:

187 212.08 Sales, rental, use, consumption, distribution, and
 188 storage tax; specified exemptions.—The sale at retail, the
 189 rental, the use, the consumption, the distribution, and the
 190 storage to be used or consumed in this state of the following
 191 are hereby specifically exempt from the tax imposed by this
 192 chapter.

193 (5) EXEMPTIONS; ACCOUNT OF USE.—

194 (e) Gas or electricity used for certain agricultural
 195 purposes.—

196 1. Butane gas, propane gas, natural gas, and all other
 197 forms of liquefied petroleum gases are exempt from the tax
 198 imposed by this chapter if used in any tractor, vehicle, or
 199 other farm equipment which is used exclusively on a farm or for
 200 processing farm products on the farm and no part of which gas is
 201 used in any vehicle or equipment driven or operated on the
 202 public highways of this state. This restriction does not apply
 203 to the movement of farm vehicles or farm equipment between

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204 farms. The transporting of bees by water and the operating of
 205 equipment used in the apiary of a beekeeper is also deemed an
 206 exempt use.

207 2. Electricity used directly or indirectly for production,
 208 packing, or processing of agricultural products on the farm, or
 209 used directly or indirectly in a packinghouse, is exempt from
 210 the tax imposed by this chapter. As used in this subsection, the
 211 term "packinghouse" means any building or structure where fruits
 212 and vegetables are packed or otherwise prepared for market or
 213 shipment in fresh form for wholesale distribution. The exemption
 214 does not apply to electricity used in buildings or structures
 215 where agricultural products are sold at retail. This exemption
 216 applies only if the electricity used for the exempt purposes is
 217 separately metered. If the electricity is not separately
 218 metered, it is conclusively presumed that some portion of the
 219 electricity is used for a nonexempt purpose, and all of the
 220 electricity used for such purposes is taxable.

221 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
 222 entity by this chapter do not inure to any transaction that is
 223 otherwise taxable under this chapter when payment is made by a
 224 representative or employee of the entity by any means,
 225 including, but not limited to, cash, check, or credit card, even
 226 when that representative or employee is subsequently reimbursed
 227 by the entity. In addition, exemptions provided to any entity by
 228 this subsection do not inure to any transaction that is
 229 otherwise taxable under this chapter unless the entity has
 230 obtained a sales tax exemption certificate from the department
 231 or the entity obtains or provides other documentation as
 232 required by the department. Eligible purchases or leases made

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233 with such a certificate must be in strict compliance with this
 234 subsection and departmental rules, and any person who makes an
 235 exempt purchase with a certificate that is not in strict
 236 compliance with this subsection and the rules is liable for and
 237 shall pay the tax. The department may adopt rules to administer
 238 this subsection.

239 (ee) Aircraft repair and maintenance labor charges.—There
 240 shall be exempt from the tax imposed by this chapter all labor
 241 charges for the repair and maintenance of qualified aircraft,
 242 aircraft of more than 2,000 ~~15,000~~ pounds maximum certified
 243 takeoff weight, and rotary wing aircraft of more than 10,000
 244 pounds maximum certified takeoff weight. Except as otherwise
 245 provided in this chapter, charges for parts and equipment
 246 furnished in connection with such labor charges are taxable.

247 (rr) Equipment used in aircraft repair and maintenance.—
 248 There shall be exempt from the tax imposed by this chapter
 249 replacement engines, parts, and equipment used in the repair or
 250 maintenance of qualified aircraft, aircraft of more than 2,000
 251 ~~15,000~~ pounds maximum certified takeoff weight, and rotary wing
 252 aircraft of more than 10,300 pounds maximum certified takeoff
 253 weight, when such parts or equipment are installed on such
 254 aircraft that is being repaired or maintained in this state.

255 (hhh) Items used in manufacturing and fabricating aircraft
 256 and gas turbine engines.—Chemicals, machinery, parts, and
 257 equipment used and consumed in the manufacture or fabrication of
 258 aircraft engines and gas turbine engines, including cores,
 259 electrical discharge machining supplies, brass electrodes,
 260 ceramic guides, reamers, grinding and deburring wheels, Norton
 261 vortex wheels, argon, nitrogen, helium, fluid abrasive cutters,

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262 solvents and soaps, boroscopes, penetrants, patterns, dies, and
 263 molds consumed in the production of castings are exempt from the
 264 tax imposed by this chapter.

265 Section 4. Effective January 1, 2013, paragraph (b) of
 266 subsection (5) of section 212.08, Florida Statutes, is amended
 267 to read:

268 212.08 Sales, rental, use, consumption, distribution, and
 269 storage tax; specified exemptions.—The sale at retail, the
 270 rental, the use, the consumption, the distribution, and the
 271 storage to be used or consumed in this state of the following
 272 are hereby specifically exempt from the tax imposed by this
 273 chapter.

274 (5) EXEMPTIONS; ACCOUNT OF USE.—

275 (b) Machinery and equipment used to increase productive
 276 output.—

277 1. Industrial machinery and equipment purchased for
 278 exclusive use by a new business in spaceport activities as
 279 defined by s. 212.02 or for use in new businesses that
 280 manufacture, process, compound, or produce for sale items of
 281 tangible personal property at fixed locations are exempt from
 282 the tax imposed by this chapter upon an affirmative showing by
 283 the taxpayer to the satisfaction of the department that such
 284 items are used in a new business in this state. Such purchases
 285 must be made before ~~prior to~~ the date the business first begins
 286 its productive operations, and delivery of the purchased item
 287 must be made within 12 months after that date.

288 2. Industrial machinery and equipment purchased for
 289 exclusive use by an expanding facility which is engaged in
 290 spaceport activities as defined by s. 212.02 or for use in

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291 expanding manufacturing facilities or plant units which
 292 manufacture, process, compound, or produce for sale items of
 293 tangible personal property at fixed locations in this state are
 294 exempt from any amount of tax imposed by this chapter upon an
 295 affirmative showing by the taxpayer to the satisfaction of the
 296 department that such items are used to increase the productive
 297 output of such expanded facility or business by not less than 5
 298 ~~10~~ percent.

299 3.a. To receive an exemption provided by subparagraph 1.
 300 or subparagraph 2., a qualifying business entity shall apply to
 301 the department for a temporary tax exemption permit. The
 302 application shall state that a new business exemption or
 303 expanded business exemption is being sought. Upon a tentative
 304 affirmative determination by the department pursuant to
 305 subparagraph 1. or subparagraph 2., the department shall issue
 306 such permit.

307 b. The applicant shall maintain all necessary books and
 308 records to support the exemption. Upon completion of purchases
 309 of qualified machinery and equipment pursuant to subparagraph 1.
 310 or subparagraph 2., the temporary tax permit shall be delivered
 311 to the department or returned to the department by certified or
 312 registered mail.

313 c. If, in a subsequent audit conducted by the department,
 314 it is determined that the machinery and equipment purchased as
 315 exempt under subparagraph 1. or subparagraph 2. did not meet the
 316 criteria mandated by this paragraph or if commencement of
 317 production did not occur, the amount of taxes exempted at the
 318 time of purchase shall immediately be due and payable to the
 319 department by the business entity, together with the appropriate

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320 interest and penalty, computed from the date of purchase, in the
 321 manner prescribed by this chapter.

322 d. If a qualifying business entity fails to apply for a
 323 temporary exemption permit or if the tentative determination by
 324 the department required to obtain a temporary exemption permit
 325 is negative, a qualifying business entity shall receive the
 326 exemption provided in subparagraph 1. or subparagraph 2. through
 327 a refund of previously paid taxes. No refund may be made for
 328 such taxes unless the criteria mandated by subparagraph 1. or
 329 subparagraph 2. have been met and commencement of production has
 330 occurred.

331 4. The department shall adopt rules governing applications
 332 for, issuance of, and the form of temporary tax exemption
 333 permits; provisions for recapture of taxes; and the manner and
 334 form of refund applications, and may establish guidelines as to
 335 the requisites for an affirmative showing of increased
 336 productive output, commencement of production, and qualification
 337 for exemption.

338 5. The exemptions provided in subparagraphs 1. and 2. do
 339 not apply to machinery or equipment purchased or used by
 340 electric utility companies, communications companies, oil or gas
 341 exploration or production operations, publishing firms that do
 342 not export at least 50 percent of their finished product out of
 343 the state, any firm subject to regulation by the Division of
 344 Hotels and Restaurants of the Department of Business and
 345 Professional Regulation, or any firm that does not manufacture,
 346 process, compound, or produce for sale items of tangible
 347 personal property or that does not use such machinery and
 348 equipment in spaceport activities as required by this paragraph.

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349 The exemptions provided in subparagraphs 1. and 2. shall apply
 350 to machinery and equipment purchased for use in phosphate or
 351 other solid minerals severance, mining, or processing
 352 operations.

353 6. For the purposes of the exemptions provided in
 354 subparagraphs 1. and 2., these terms have the following
 355 meanings:

356 a. "Industrial machinery and equipment" means tangible
 357 personal property or other property that has a depreciable life
 358 of 3 years or more and that is used as an integral part in the
 359 manufacturing, processing, compounding, or production of
 360 tangible personal property for sale or is exclusively used in
 361 spaceport activities. A building and its structural components
 362 are not industrial machinery and equipment unless the building
 363 or structural component is so closely related to the industrial
 364 machinery and equipment that it houses or supports that the
 365 building or structural component can be expected to be replaced
 366 when the machinery and equipment are replaced. Heating and air-
 367 conditioning systems are not industrial machinery and equipment
 368 unless the sole justification for their installation is to meet
 369 the requirements of the production process, even though the
 370 system may provide incidental comfort to employees or serve, to
 371 an insubstantial degree, nonproduction activities. The term
 372 includes parts and accessories only to the extent that the
 373 exemption thereof is consistent with the provisions of this
 374 paragraph.

375 b. "Productive output" means the number of units actually
 376 produced by a single plant, operation, or product line in a
 377 single continuous 12-month period, irrespective of sales.

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378 Increases in productive output shall be measured by the output
 379 for 12 continuous months selected by the expanding business
 380 after ~~following the~~ completion of the installation of such
 381 machinery or equipment over the output for the 12 continuous
 382 months immediately preceding such installation. However, in no
 383 case may such time period begin later than 2 years after
 384 ~~following the~~ completion of the installation of the new
 385 machinery and equipment. The units used to measure productive
 386 output shall be physically comparable between the two periods,
 387 irrespective of sales.

388 Section 5. Effective January 1, 2013, and applying to tax
 389 years beginning on or after January 1, 2013, subsection (1) of
 390 section 220.14, Florida Statutes, is amended to read:

391 220.14 Exemption.—

392 (1) In computing a taxpayer's liability for tax under this
 393 code, there shall be exempt from the tax \$50,000 ~~\$25,000~~ of net
 394 income as defined in s. 220.12 or such lesser amount as will,
 395 without increasing the taxpayer's federal income tax liability,
 396 provide the state with an amount under this code which is equal
 397 to the maximum federal income tax credit which may be available
 398 from time to time under federal law.

399 Section 6. Effective January 1, 2013, and applying to tax
 400 years beginning on or after January 1, 2013, subsection (3) of
 401 section 220.63, Florida Statutes, is amended to read:

402 220.63 Franchise tax imposed on banks and savings
 403 associations.—

404 (3) For purposes of this part, the franchise tax base
 405 shall be adjusted federal income, as defined in s. 220.13,
 406 apportioned to this state, plus nonbusiness income allocated to

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407 this state pursuant to s. 220.16, less the deduction allowed in
 408 subsection (5) and less \$50,000 ~~\$25,000~~.

409 Section 7. Paragraph (b) of subsection (4) of section
 410 288.1254, Florida Statutes, is amended to read:

411 288.1254 Entertainment industry financial incentive
 412 program.—

413 (4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES;
 414 ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS;
 415 PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND
 416 ACQUISITIONS.—

417 (b) Tax credit eligibility.—

418 1. General production queue.—Ninety-four percent of tax
 419 credits authorized pursuant to subsection (6) in any state
 420 fiscal year must be dedicated to the general production queue.
 421 The general production queue consists of all qualified
 422 productions other than those eligible for the commercial and
 423 music video queue or the independent and emerging media
 424 production queue. A qualified production that demonstrates a
 425 minimum of \$625,000 in qualified expenditures is eligible for
 426 tax credits equal to 20 percent of its actual qualified
 427 expenditures, up to a maximum of \$8 million. A qualified
 428 production that incurs qualified expenditures during multiple
 429 state fiscal years may combine those expenditures to satisfy the
 430 \$625,000 minimum threshold. If a qualified production claims a
 431 credit from this queue for principal-photography-related
 432 qualified production expenditures, at least 50 percent of the
 433 total principal photography shooting days spent in the
 434 production of that qualified production must be within this
 435 state or at least \$10 million must be spent on qualified

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436 production expenditures within this state.

437 a. An off-season certified production that is a feature
438 film, independent film, or television series or pilot is
439 eligible for an additional 5-percent tax credit on actual
440 qualified expenditures. An off-season certified production that
441 does not complete 75 percent of principal photography due to a
442 disruption caused by a hurricane or tropical storm may not be
443 disqualified from eligibility for the additional 5-percent
444 credit as a result of the disruption.

445 b. If more than 25 percent of the sum of total tax credits
446 awarded to productions after July 1, 2010, and total tax credits
447 certified, but not yet awarded, to productions currently in this
448 state has been awarded for television series, then no television
449 series ~~or pilot~~ shall be eligible for tax credits under this
450 subparagraph.

451 c. The calculations required by this sub-subparagraph
452 shall use only credits available to be certified and awarded on
453 or after July 1, 2011.

454 (I) If the provisions of sub-subparagraph b. are not
455 applicable and less than 25 percent of the sum of the total tax
456 credits awarded to productions and the total tax credits
457 certified, but not yet awarded, to productions currently in this
458 state has been to high-impact television series, any qualified
459 high-impact television series shall be allowed first position in
460 this queue for tax credit awards not yet certified.

461 (II) If less than 20 percent of the sum of the total tax
462 credits awarded to productions and the total tax credits
463 certified, but not yet awarded, to productions currently in this
464 state has been to digital media projects, any digital media

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465 project with qualified expenditures of greater than \$4,500,000
 466 shall be allowed first position in this queue for tax credit
 467 awards not yet certified.

468 (III) For the purposes of determining position between a
 469 high-impact television series allowed first position and a
 470 digital media project allowed first position under this sub-
 471 subparagraph, tax credits shall be awarded on a first-come,
 472 first-served basis.

473 d. A qualified production that incurs at least 85 percent
 474 of its qualified expenditures within a region designated as an
 475 underutilized region at the time that the production is
 476 certified is eligible for an additional 5-percent tax credit.

477 e. Any qualified production that employs students enrolled
 478 full-time in a film and entertainment-related or digital media-
 479 related course of study at an institution of higher education in
 480 this state is eligible for an additional 15-percent tax credit
 481 on qualified expenditures that are wages, salaries, or other
 482 compensation paid to such students. The additional 15-percent
 483 tax credit shall also be applicable to persons hired within 12
 484 months of graduating from a film and entertainment-related or
 485 digital media-related course of study at an institution of
 486 higher education in this state. The additional 15-percent tax
 487 credit shall apply to qualified expenditures that are wages,
 488 salaries, or other compensation paid to such recent graduates
 489 for 1 year from the date of hiring.

490 f. A qualified production for which 50 percent or more of
 491 its principal photography occurs at a qualified production
 492 facility, or a qualified digital media project or the digital
 493 animation component of a qualified production for which 50

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494 percent or more of the project's or component's qualified
 495 expenditures are related to a qualified digital media production
 496 facility, shall be eligible for an additional 5-percent tax
 497 credit on actual qualified expenditures for production activity
 498 at that facility.

499 g. No qualified production shall be eligible for tax
 500 credits provided under this paragraph totaling more than 30
 501 percent of its actual qualified expenses.

502 2. Commercial and music video queue.—Three percent of tax
 503 credits authorized pursuant to subsection (6) in any state
 504 fiscal year must be dedicated to the commercial and music video
 505 queue. A qualified production company that produces national or
 506 regional commercials or music videos may be eligible for a tax
 507 credit award if it demonstrates a minimum of \$100,000 in
 508 qualified expenditures per national or regional commercial or
 509 music video and exceeds a combined threshold of \$500,000 after
 510 combining actual qualified expenditures from qualified
 511 commercials and music videos during a single state fiscal year.
 512 After a qualified production company that produces commercials,
 513 music videos, or both reaches the threshold of \$500,000, it is
 514 eligible to apply for certification for a tax credit award. The
 515 maximum credit award shall be equal to 20 percent of its actual
 516 qualified expenditures up to a maximum of \$500,000. If there is
 517 a surplus at the end of a fiscal year after the Office of Film
 518 and Entertainment certifies and determines the tax credits for
 519 all qualified commercial and video projects, such surplus tax
 520 credits shall be carried forward to the following fiscal year
 521 and be available to any eligible qualified productions under the
 522 general production queue.

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523 3. Independent and emerging media production queue.—Three
 524 percent of tax credits authorized pursuant to subsection (6) in
 525 any state fiscal year must be dedicated to the independent and
 526 emerging media production queue. This queue is intended to
 527 encourage Florida independent film and emerging media
 528 production. Any qualified production, excluding commercials,
 529 infomercials, or music videos, that demonstrates at least
 530 \$100,000, but not more than \$625,000, in total qualified
 531 expenditures is eligible for tax credits equal to 20 percent of
 532 its actual qualified expenditures. If a surplus exists at the
 533 end of a fiscal year after the Office of Film and Entertainment
 534 certifies and determines the tax credits for all qualified
 535 independent and emerging media production projects, such surplus
 536 tax credits shall be carried forward to the following fiscal
 537 year and be available to any eligible qualified productions
 538 under the general production queue.

539 4. Family-friendly productions.—A certified theatrical or
 540 direct-to-video motion picture production or video game
 541 determined by the Commissioner of Film and Entertainment, with
 542 the advice of the Florida Film and Entertainment Advisory
 543 Council, to be family-friendly, based on the review of the
 544 script and the review of the final release version, is eligible
 545 for an additional tax credit equal to 5 percent of its actual
 546 qualified expenditures. Family-friendly productions are those
 547 that have cross-generational appeal; would be considered
 548 suitable for viewing by children age 5 or older; are appropriate
 549 in theme, content, and language for a broad family audience;
 550 embody a responsible resolution of issues; and do not exhibit or
 551 imply any act of smoking, sex, nudity, or vulgar or profane

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552 language.

553 Section 8. Paragraph (c) of subsection (3) of section
554 288.9914, Florida Statutes, is amended to read:

555 288.9914 Certification of qualified investments;
556 investment issuance reporting.—

557 (3) REVIEW.—

558 (c) The department may not approve a cumulative amount of
559 qualified investments that may result in the claim of more than
560 \$195 ~~\$97.5~~ million in tax credits during the existence of the
561 program or more than \$40 ~~\$20~~ million in tax credits in a single
562 state fiscal year. However, the potential for a taxpayer to
563 carry forward an unused tax credit may not be considered in
564 calculating the annual limit.

565 Section 9. Subsection (1) of section 288.9915, Florida
566 Statutes, is amended to read:

567 288.9915 Use of proceeds from qualified investments;
568 recordkeeping.—

569 (1) A qualified community development entity may not make
570 cash interest payments on a long-term debt security that is a
571 qualified investment in excess of the entity's cumulative
572 operating income earned during the 7 ~~for 6~~ years after following
573 ~~the~~ issuance of the security. For purposes of calculating
574 operating income, the interest expense on the security is
575 disregarded.

576 Section 10. Section 290.00729, Florida Statutes, is
577 created to read:

578 290.00729 Enterprise zone designation for Charlotte
579 County.—Charlotte County may apply to the Department of Economic
580 Opportunity for designation of one enterprise zone encompassing

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581 an area not to exceed 20 square miles within Charlotte County.
 582 The application must be submitted by December 31, 2012, and must
 583 comply with the requirements in s. 290.0055. Notwithstanding s.
 584 290.0065 limiting the total number of enterprise zones
 585 designated and the number of enterprise zones within a
 586 population category, the department may designate one enterprise
 587 zone under this section. The department shall establish the
 588 initial effective date of the enterprise zone designated under
 589 this section.

590 Section 11. Section 290.00731, Florida Statutes, is
 591 created to read:

592 290.00731 Enterprise zone designation for Citrus County.—
 593 Citrus County may apply to the department for designation of one
 594 enterprise zone for an area within Citrus County. The
 595 application must be submitted by December 31, 2012, and must
 596 comply with the requirements of s. 290.0055. Notwithstanding s.
 597 290.0065 limiting the total number of enterprise zones
 598 designated and the number of enterprise zones within a
 599 population category, the department may designate one enterprise
 600 zone under this section. The department shall establish the
 601 initial effective date of the enterprise zone designated under
 602 this section.

603 Section 12. (1) The executive director of the Department
 604 of Revenue is authorized, and all conditions are deemed met, to
 605 adopt emergency rules under ss. 120.536(1) and 120.54(4),
 606 Florida Statutes, for the purpose of implementing this act.

607 (2) Notwithstanding any provision of law, such emergency
 608 rules shall remain in effect for 6 months after the date adopted

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609 and may be renewed during the pendency of procedures to adopt
610 permanent rules addressing the subject of the emergency rules.

611 Section 13. Except as otherwise expressly provided in this
612 act, this act shall take effect July 1, 2012.