

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FINANCE AND TAX
Senator Hukill, Chair
Senator Abruzzo, Vice Chair

MEETING DATE: Monday, February 8, 2016
TIME: 4:00—6:00 p.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Hukill, Chair; Senator Abruzzo, Vice Chair; Senators Altman, Diaz de la Portilla, Flores, Margolis, Simpson, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 324 Legg (Similar CS/H 347)	Utility Projects; Creating the "Utility Cost Containment Bond Act"; authorizing certain local governmental entities to finance the costs of a utility project by issuing utility cost containment bonds upon application by a local agency; authorizing an authority to issue utility cost containment bonds for specified purposes related to utility projects; requiring the local agency or its publicly owned utility to collect the utility project charge, etc. CU 01/12/2016 Favorable FT 02/08/2016 Fav/CS AP	Fav/CS Yeas 8 Nays 0
2	CS/SB 802 Transportation / Benacquisto	Use Tax for Asphalt; Reducing by a specified percentage over time an indexed tax on manufactured asphalt used for a government public works project; exempting such manufactured asphalt from the indexed tax beginning on a specified date, etc. TR 01/14/2016 Fav/CS FT 02/08/2016 Favorable AP	Favorable Yeas 8 Nays 0
3	SB 844 Flores (Identical H 551, Compare H 7099)	Aviation Fuel Taxes; Revising eligibility criteria for wholesalers and terminal suppliers to receive refunds or credits of previously paid excise taxes; providing for future repeal; revising the rate of the excise tax on certain aviation fuels, etc. TR 01/14/2016 Favorable FT 02/08/2016 Fav/CS AP	Fav/CS Yeas 7 Nays 1

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Finance and Tax

Monday, February 8, 2016, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SJR 1194 Negrón (Similar CS/HJR 1009)	Tax Exemption for Senior, Totally Permanently Disabled First Responders; Proposing amendments to the State Constitution to authorize a first responder, who is age 65 or older and totally permanently disabled as a result of an injury sustained in the line of duty, to receive a discount on ad valorem taxes assessed on homestead property, if authorized by general law, and to provide an effective date. CA 01/19/2016 Favorable FT 02/08/2016 Fav/CS AP	Fav/CS Yeas 7 Nays 0
5	CS/SB 1264 Agriculture / Simpson (Similar H 1189)	Sales Tax Exemptions for Agricultural Equipment; Revising the maximum sales price of certain farm trailers that are exempt from the sales and use tax; exempting certain agricultural items from the tax, etc. AG 01/19/2016 Fav/CS FT 02/08/2016 Favorable AP	Favorable Yeas 8 Nays 0
6	SB 1272 Hukill (Compare H 7099)	Florida Renewable Energy Production Credit; Deleting the time limit for the renewable energy production credit against the corporate income tax; revising the total amount of tax credits which may be granted to taxpayers per state fiscal year; revising the permissible use of certain unallocated credit amounts, etc. CU 02/02/2016 Favorable FT 02/08/2016 Fav/CS AP	Fav/CS Yeas 8 Nays 0
7	CS/SB 1652 Community Affairs / Bradley / Bean (Similar H 1297)	Discretionary Sales Surtaxes; Authorizing a county to apply proceeds of a pension liability surtax toward reducing the unfunded liability of a defined benefit retirement plan or system; requiring that surtax proceeds be used to reduce or amortize the unfunded liability of the system or plan, etc. CA 01/26/2016 Fav/CS FT 02/08/2016 Fav/CS RC	Fav/CS Yeas 7 Nays 0

Consideration of proposed bill:

COMMITTEE MEETING EXPANDED AGENDA

Finance and Tax

Monday, February 8, 2016, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SPB 7064	Corporate Income Tax; Revising the applicable version of the Internal Revenue Code and federal income tax code statutes; amending due dates for partnership information returns and corporate tax returns; amending the dates used to calculate interest and penalties on underpayments of estimated corporate income tax, etc.	Submitted as Committee Bill Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SB 324

INTRODUCER: Finance and Tax Committee and Senators Legg and Simpson

SUBJECT: Utility Projects

DATE: February 10, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 324 establishes a new mechanism - utility cost containment bonds - available to a utility authority to finance projects related to water or wastewater service on behalf of a municipality, county, special district, public corporation, regional water authority, or other governmental entity. Utility cost containment bonds are secured by a utility project charge levied on utility customers. The separate charge is designed to satisfy rating agency criteria to achieve a higher bond rating and, therefore, a lower interest rate and more favorable terms for bonds issued to fund eligible projects.

Briefly, the financing mechanism created by the bill operates as follows:

- A local agency applies to the authority to finance the costs of an eligible project using utility cost containment bonds.
- The authority adopts a financing resolution, setting forth certain requirements for issuance of the bonds.
- The bonds are secured by the revenues from a separate utility project charge stated on the bill of each present and future customer of the services specified in the financing resolution.
- The revenues from the charge are transferred to the authority and held in trust for the benefit of the bondholders.

The bill may reduce local government expenditures by reducing financing costs for water and waste water utility projects.

The bill amends the current procedure for 65 percent of the customers of a utility to petition the Public Service Commission (PSC) to revoke the utility's certificate of authorization and allows a county to exercise eminent domain powers and condemn the utility upon a filing of a petition. The bill removes the ability of the PSC to require the utility to take the necessary steps to correct the quality of water service; rather, if the PSC finds that the utility is not providing quality of water service, the PSC must appoint a receiver until the PSC approves a sale of the utility.

The bill takes effect July 1, 2016.

II. Present Situation:

Financing Authority of Local Government Entities for Public Works Projects

Local governments are authorized under current law to issue bonds, revenue certificates, and other forms of indebtedness related to the provision of public works projects.

County Bonding

A county may issue water revenue bonds, sewer revenue bonds, or general obligation bonds to pay all or part of the cost to purchase, construct, improve, extend, enlarge, or reconstruct water supply systems or sewage disposal systems.¹ Water revenue bonds are payable solely from water service charges.² Sewer revenue bonds are payable solely from sewer service charges.³ Neither type of revenue bond pledges the property, credit, or general tax revenue of the county. General obligation bonds are payable from ad valorem taxes alone or from ad valorem taxes with an additional secured pledge of water service charges, sewer service charges, special assessments, or a combination of these sources.⁴ Issuance of general obligation bonds, as required by the State Constitution,⁵ requires approval by referendum, and a county is required to levy annually a special tax upon all taxable property within the county to pay the principle and interest as it becomes due.⁶ Counties may also create special water and sewer districts to serve unincorporated areas, and the district's board may issue revenue bonds to finance all or part of the cost of a water system, sewer system, or both. Such bonds are payable from the revenues derived from operation of the utility system as provided by law and the authorizing resolution of the district's board.⁷

Municipal Bonding

A municipality may issue revenue bonds, general obligation bonds, ad valorem bonds, or improvement bonds to finance capital expenditures made for a public purpose. Revenue bonds

¹ Section 153.03(1) and (2), F.S.

² Section 153.02(9), F.S.

³ Section 153.02(10), F.S.

⁴ Section 153.02(11), F.S.

⁵ Section 12, Article VII, of the State Constitution (providing that counties, school districts, municipalities, special districts and local governmental bodies with taxing powers may issue bonds, certificates of indebtedness or any form of tax anticipation certificates, payable from ad valorem taxation only "to finance or refinance capital projects authorized by law and only when approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation.")

⁶ Section 153.07, F.S.

⁷ Section 153.63(1), F.S. Such bonds may also be secured by the pledge of special assessments or the full faith and credit of the district.

are payable from sources other than ad valorem taxes and are not secured by a pledge of the property, credit, or general tax revenue of the municipality.⁸ General obligation bonds are payable from any special taxes levied for the purpose of repayment and any other sources as provided by the authorizing ordinance or resolution.⁹ Such bonds are secured by the full faith and credit and taxing power of the municipality and may require approval by referendum. Ad valorem bonds are payable from the proceeds of ad valorem taxes and require approval by referendum.¹⁰ Improvement bonds are special obligations payable solely from the proceeds of special assessments levied for a project.¹¹

Further, a municipality may issue mortgage revenue certificates or debentures to acquire, construct, or extend public works, including, among other things, water and alternative water supply facilities, sewage collection and disposal facilities, gas plants and distribution systems, and stormwater projects.¹² These instruments constitute a lien only against the property and revenue of the utility. These instruments may not impose any tax liability upon any real or personal property in the municipality and may not constitute a debt against the issuing municipality.¹³

The Division of Bond Finance (DBF) of the State Board of Administration provides information to, and collects information from, units of local government¹⁴ concerning the issuance of bonds by such entities.¹⁵ Each unit of local government must provide the DBF a complete description of its new general obligation bonds and revenue bonds and must provide advance notice of the impending sale of a new issue of bonds.¹⁶ According to the DBF, a public utility generally finances projects with revenue bonds, securing the debt with a pledge of net revenues of the utility system. These net revenues consist of the income of the public utility remaining after paying expenses necessary to operate and maintain the utility. The DBF notes that this current practice requires the efficient operation of the utility system to assure that sufficient net revenues are available to pay debt service.

Creation and Financing Authority of Intergovernmental Utility Authorities

The Florida Interlocal Cooperation Act of 1969 (Act) is intended to allow local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage.¹⁷ The Act provides that local governmental entities may jointly exercise their powers by entering into a contract in the form of an interlocal

⁸ Section 166.101(4), F.S.

⁹ Section 166.101(2), F.S.

¹⁰ FLA. CONST. art. VII, s. 12; s. 166.101(3), F.S.

¹¹ Section 166.101, F.S., et seq.

¹² Sections 180.06 and 180.08, F.S.

¹³ Section 180.08, F.S.

¹⁴ “Unit of local government” is defined in s. 218.369, F.S., as “a county, municipality, special district, district school board, local agency, authority, or consolidated city-county government or any other local governmental body or public body corporate and politic authorized or created by general or special law and granted the power to issue general obligation or revenue bonds.”

¹⁵ Section 218.37, F.S.

¹⁶ *Id.* The DBF is authorized only to collect information concerning these bonds; it does not exercise any substantive authority to review or approve these transactions.

¹⁷ Section 163.01(2), F.S.

agreement.¹⁸ Under such an agreement, the local governmental units may create a separate legal or administrative entity “to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.”¹⁹ A separate entity created by an interlocal agreement possesses the authority specified in the agreement.²⁰ Among the authority granted such an entity is the power to authorize, issue, and sell bonds.²¹

The Act specifically addresses the establishment of such entities to provide water service or sewer service (hereinafter referred to as “intergovernmental utility authorities” or “IGUAs”). The Act authorizes the creation of IGUAs to acquire, own, construct, improve, operate, and manage public facilities relating to a governmental function or purpose, including water and alternative water supply facilities, wastewater facilities, and water reuse facilities.²² An IGUA created under this provision may also finance such facilities on behalf of any person. The membership of an IGUA created under this provision is limited to two or more special districts, municipalities, or counties of the state. The IGUA’s facilities may serve populations “within or outside of the members of the entity,” but not within the service area of an existing utility system. An IGUA is not subject to regulation by the Public Service Commission.²³

An IGUA created under s. 163.07(g), F.S., may finance or refinance the acquisition, construction, expansion, and improvement of facilities through the issuance of bonds, notes, or other obligations. Except as may be limited by the interlocal agreement under which the entity is created, all of the privileges, benefits, powers, and terms of the statutes relating to counties²⁴ and municipalities²⁵ are fully applicable to the IGUA. Bonds, notes, and other obligations issued by the IGUA are issued on behalf of the public agencies that are members of the IGUA.²⁶

The Florida Governmental Utility Authority (FGUA) was formed in 1999 pursuant to s. 163.01(7)(g), F.S. As noted on its website, the FGUA is a separate legal entity created by interlocal agreement with the limited purpose of owning and operating a public utility system. It provides retail water and wastewater utility services in several portions of the state. The FGUA consists of 14 counties: Alachua, Citrus, Collier, Hardee, Hillsborough, Lake, Lee, Marion, Orange, Pasco, Polk, Putnam, Seminole, and Volusia.²⁷ The FGUA’s governing board is comprised of six members representing Citrus, Hendry, Lee, Marion, Pasco, and Polk counties.²⁸ Each board member is a county employee appointed by their local government.²⁹

¹⁸ Section 163.01(5), F.S.

¹⁹ Section 163.01(2), F.S.

²⁰ Section 163.01(7)(b), F.S.

²¹ Section 163.01(7)(d), F.S.

²² Section 163.01(7)(g), F.S.

²³ Section 367.022(2), F.S.

²⁴ Section 125.01, F.S.

²⁵ Section 166.021, F.S.

²⁶ Section 163.01(7)(g)7., F.S.

²⁷ <http://www.fgua.com> (See “History,” last visited Jan. 31, 2016).

²⁸ <http://www.fgua.com> (See “The board,” last visited Jan. 31, 2016).

²⁹ *Id.*

Utility Securitization Financing in Florida

Following the severe tropical storm seasons that Florida faced in 2004 and 2005, the Legislature created a new financing mechanism, referred to as securitization, by which investor-owned electric utilities could petition the Public Service Commission for issuance of a financing order authorizing the utility to issue bonds through a separate legal entity.³⁰ If granted, the financing order was required to establish a nonbypassable charge to the utility's customers in order to provide a secure stream of revenues to the separate legal entity from which the bonds would be paid. The purpose of this mechanism was to allow the utilities access to low-cost financing to cover storm recovery costs and replenishment of depleted storm reserve funds. This mechanism has been implemented in only one instance.³¹

Public Service Commission Jurisdiction over Water and Wastewater Utilities

Chapter 367, F.S., is the Water and Wastewater System Regulatory law. Section 367.011, F.S., grants the Public Service Commission (PSC) exclusive jurisdiction over each utility with respect to its authority, service, and rates. It also declares the regulation of utilities to be in the public interest, and the chapter to be an exercise of the police power of the state for the protection of the public health, safety, and welfare. Section 367.022(2), F.S., exempts water or wastewater systems owned, operated, managed, or controlled by governmental authorities,³² from the application of chapter 367, F.S.

Public Service Commission Rate-Making and Water Quality

The PSC establishes utility rates which are just, reasonable, compensatory, and not unfairly discriminatory.³³ In doing so, the commission must consider the value and quality of the service and the cost of providing the service, which includes, but is not limited to: debt interest; the requirements of the utility for working capital; maintenance, depreciation, tax, and operating expenses incurred in the operation of all property used and useful in the public service; and a fair return on the investment of the utility in property used and useful in the public service.³⁴

In setting rates, the PSC's primary focus is on the quality of the service provided; not the quality of the water itself.³⁵ The quality of the water and compliance with secondary water quality standards are recurring issues at the PSC.³⁶ In 2012, the Legislature created the Study Committee on Investor-Owned Water & Wastewater Utility Systems (Study Committee) and directed it to review a list of issues, including water quality.³⁷ The study committee recommended a

³⁰ Section 366.8260, F.S.

³¹ Docket No. 060038-EI, Florida Public Service Commission.

³² In this context, the term "governmental authority" means a political subdivision, a regional water supply authority, or a nonprofit corporation formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility. See Section 367.021(7), F.S.

³³ Section 367.081(2)(a)1., F.S.

³⁴ *Id.*

³⁵ *See id.*

³⁶ Water quality of service problems, for which customers have provided testimony at PSC hearings, include black water, pressure, odor, and customer service. *See* PSC, Final Order No. PSC-97-0280-FOF-WS (Mar. 12, 1997).

³⁷ Chapter 2012-187, s. 2, Laws of Fla.

mechanism within a rate case proceeding to require the PSC to consider the extent to which a utility meets secondary water and wastewater standards.³⁸

Standards for Secondary Water Quality Characteristics and Petitions to Revoke a Certificate of Authorization

Secondary water quality characteristics refer to those characteristics of drinking water that typically have no adverse health effects, but instead are generally associated with aesthetic concerns. The Department of Environmental Protection (DEP) has established maximum allowed levels for 14 criteria of secondary water quality characteristics. Based on the U.S. Environmental Protection Agency (EPA) mandated standards, the DEP's list of secondary water quality characteristics includes: aluminum, chlorine, copper, fluoride, iron, manganese, silver, sulfate, zinc, color, odor, pH, total dissolved solids, and foaming agents.³⁹

In 2014, the Legislature created s. 367.0812, F.S., which requires the PSC to consider the extent a utility meets secondary water quality standards in setting the utility's rates.⁴⁰ Additionally, the Legislature created a mechanism for customers of a water utility to petition the PSC for revocation of a utility's certificate of authorization.⁴¹ The revocation procedure requires at least 65 percent of the customers in the utility's service area to sign a petition, and the petition must state the specific issues the customers have with the quality of their water service, identify each time the issue was reported to the utility, and identify how long the issue has existed.⁴²

The PSC must evaluate the petition and determine whether the utility is failing to provide quality water service.⁴³ The PSC may dismiss the petition, require the utility to take steps to correct the quality of the water service, or revoke the utility's certificate of authorization and appoint a receiver until a sale of the utility system is approved pursuant to s. 367.071, F.S.

III. Effect of Proposed Changes:

Summary

The bill establishes a new financing mechanism – utility cost containment bonds – available to an authority to finance or refinance projects related to water or wastewater service on behalf of a municipality, county, special district, public corporation, regional water authority, or other governmental entity. Utility cost containment bonds are secured by a utility project charge levied on utility customers. The separate charge is designed to satisfy rating agency criteria to achieve a higher bond rating and, therefore, a lower interest rate and more favorable terms for bonds issued to fund eligible projects.

³⁸ For the text of the recommended statutory change, see Study Committee on Investor-Owned Water & Wastewater Utility Systems, Study Committee Report (Feb. 15, 2013), Attachment IV.9-D, at 115 of 386, *available at* <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/waterandwastewater/Water-Wastewater%20Sub%20Committee%20Report.pdf> (last visited Feb. 08, 2016).

³⁹ DEP, *Secondary Drinking Water Standards*, http://www.dep.state.fl.us/water/drinkingwater/sec_con.htm (last visited Feb. 08, 2016).

⁴⁰ Chapter 2014-68, Laws of Fla. (creating ss. 367.072 and 367.0812, F.S., effective July 1, 2014).

⁴¹ *Id.*

⁴² Section 367.072(2), F.S.

⁴³ Section 367.072(3), F.S.

Briefly, the financing mechanism created by the bill operates as follows:

- A local agency applies to the authority to finance the costs of an eligible project using utility cost containment bonds.
- The authority adopts a financing resolution, setting forth certain requirements for issuance of the bonds.
- The bonds are secured by the revenues from a separate utility project charge stated on the bill of each present and future customer of the services specified in the financing resolution.
- The revenues from the charge are transferred to the authority and held in trust for the benefit of the bondholders.

Definitions

The bill creates a number of new definitions related to the new financing mechanism.

“Authority” means an entity, including a successor to the powers and functions of such entity, created pursuant to s. 163.01(7)(g), F.S., or a separate legal entity created by one or more local agencies.

“Cost,” as applied to a utility project or portion of a utility project financed under this section, means any of the following:

- Any part of the expense of constructing, renovating, or acquiring lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a utility project;
- The expense of demolishing or removing any buildings or structures on acquired land, including the expense of acquiring any lands to which the buildings or structures may be moved, and the cost of all machinery and equipment used for the demolition or removal;
- Finance charges;
- Interest, as determined by the authority;
- Provisions for working capital and debt service reserves;
- Expenses for extensions, enlargements, additions, replacements, renovations, and improvements;
- Expenses for architectural, engineering, financial, accounting, and legal services, and for plans, specifications, estimates, and administration; and
- Any other expenses necessary or incidental to determining the feasibility of constructing a utility project or incidental to the construction, acquisition, or financing of a utility project.

“Customer” means a person receiving water or wastewater service from a publicly owned utility.

“Finance” or “financing” includes refinancing.

“Financing cost” means any of the following:

- Interest and redemption premiums that are payable on utility cost containment bonds;
- The cost of retiring the principal of utility cost containment bonds, whether at maturity, including acceleration of maturity upon an event of default, or upon redemption, including sinking fund redemption;

- The cost related to issuing or servicing utility cost containment bonds, including payment under an interest rate swap agreement, and any types of fee;
- A payment or expense associated with a bond insurance policy; financial guaranty; contract, agreement, or other credit or liquidity enhancement for bonds; or contract, agreement, or other financial agreement entered into in connection with utility cost containment bonds;
- Any coverage charges; and
- The funding of one or more reserve accounts related to utility cost containment bonds.

“Financing resolution” means a resolution adopted by the governing body of an authority that provides for the financing or refinancing of a utility project with utility cost containment bonds and that imposes a utility project charge in connection with the utility cost containment bonds in accordance with subsection (4). A financing resolution may be separate from a resolution authorizing the issuance of the bonds.

“Governing body” means the body that governs a local agency.

“Local agency” means a member of the authority, or an agency or subdivision of that member, that is sponsoring or refinancing a utility project, or any municipality, county, authority, special district, public corporation, regional water authority, or other governmental entity of the state that is sponsoring or refinancing a utility project.⁴⁴

“Public utility services” means water or wastewater services provided by a publicly owned utility. The term does not include communications services as defined in s. 202.11, F.S., Internet, or cable services.

“Publicly owned utility” means a utility furnishing retail or wholesale water or wastewater services which is owned and operated by a local agency. The term includes any successor to the powers and functions of such a utility.

“Revenue” means income and receipts of the authority related to the financing of utility projects and issuance of utility cost containment bonds, including any of the following:

- Bond purchase agreements;
- Bonds acquired by the authority;
- Installment sale agreements and other revenue-producing agreements entered into by the authority;
- Utility projects financed or refinanced by the authority;
- Grants and other sources of income;
- Moneys paid by a local agency;
- Interlocal agreements with a local agency, including all service agreements;
- Interest or other income from any investment of money in any fund or account established for the payment of principal, interest, or premiums on utility cost containment bonds, or the deposit of proceeds of utility cost containment bonds.

⁴⁴ Because the FGUA provides “public utility services” (water and wastewater services) that may be supported by a financeable “utility project,” it appears to qualify as an authority or other governmental entity of the state and would meet the definition of a “local agency.” Thus, the FGUA could be both an “authority” and a “local agency” under the bill.

“Utility cost containment bonds” means bonds, notes, commercial paper, variable rate securities, and any other evidences of indebtedness issued by an authority, the proceeds of which are used directly or indirectly to pay or reimburse a local agency or its publicly owned utility for the costs of a utility project and which are secured by a pledge of, and are payable from, utility project property.

“Utility project” means the acquisition, construction, installation, retrofitting, rebuilding, or other addition to or improvement of any equipment, device, structure, process, facility, technology, rights, or property located in or out of the state that is used in connection with the operations of a publicly owned utility.

“Utility project charge” means a charge levied on customers of a publicly owned utility to pay the financing costs of utility cost containment bonds issued pursuant to the bill. The term includes any authorized adjustment to the utility project charge.

“Utility project property” means the property right created by the bill. The term does not include any interest in a customer’s real or personal property, but does include the right, title, and interest of an authority in any of the following:

- The financing resolution, the utility project charge, and any adjustment to the utility project charge;
- The financing costs of the utility cost containment bonds and all revenues, and all collections, claims, payments, moneys, or proceeds for, or arising from, the utility project charge; and
- All rights to obtain adjustments to the utility project charge pursuant to the bill.

Local Agency Authority

The process to issue utility cost containment bonds is initiated by the governing body of the local agency holding a public meeting and determining:

- The project to be financed is a utility project;⁴⁵
- The local agency will finance costs of the utility project and the associated financing costs will be paid from utility project property (i.e., the charge to utility customers);
- Based on the best information available, the rates charged to the local agency’s retail customers by the publicly owned utility, including the utility project charge resulting from the financing of the utility project with utility cost containment bonds, are expected to be lower than the rates that would be charged if the project was financed with bonds payable from revenues of the publicly owned utility.

After such meeting and determinations, the local agency may apply to the utility authority to finance the costs of a utility project using the proceeds of utility cost containment bonds. In its application, the local agency must specify the utility project to be financed, the maximum principal amount, the maximum interest rate, and the maximum stated terms of the utility cost containment bonds.

⁴⁵ Under the bill, this determination is deemed “final and conclusive.”

The Utility Authority

The bill authorizes an authority to issue utility cost containment bonds to finance or refinance utility projects; to refinance debt of a local agency previously issued to finance or refinance such projects, if the refinancing results in present value savings; or, upon approval of a local agency, to refinance previously issued utility cost containment bonds.

To finance a utility project, the authority may form a single-purpose limited liability company and authorize the company to adopt the financing resolution. Alternatively, the authority and two or more of its members or other public agencies may create a new single-purpose entity by interlocal agreement. Either type of entity may be created by the authority solely for the purposes of performing the duties and responsibilities of the authority and is treated as an authority for purposes of the bill.

With respect to regional water projects, the authority must work with local agencies that request assistance to determine the most cost-effective manner of financing. If these entities determine that issuance of utility cost containment bonds will result in lower financing costs for a project, the authority must issue the bonds at the request of the local agencies.

The governing body of an authority that is financing the costs of an eligible utility project must adopt a financing resolution and impose a utility project charge. All provisions of the financing resolution are binding on the authority. The financing resolution must include the following:

- A description of the financial calculation method the authority will use to determine the utility project charge. The calculation method must include a periodic adjustment methodology to be applied at least annually to the utility project charge. The adjustment methodology may not be changed. The authority must establish the allocation of the utility project charge among classes of customers of the publicly owned utility. The decisions of the authority are final and conclusive.
- A requirement that each customer in the class or classes of customers specified in the financing resolution who receives water or wastewater service through the publicly owned utility must pay the utility project charge, regardless of whether the customer has an agreement to receive water or wastewater service from a person other than the publicly owned utility.
- A requirement that the utility project charge be charged separately from other charges on the bill of each customer of the utility that is in the class or classes of customers specified in the financing resolution.
- A requirement that the authority enter into a servicing agreement with the local agency or its publicly owned utility to collect the utility project charge.

The authority may require in the financing resolution that, in the event of default by the local agency or its publicly owned utility, the authority must order the sequestration and payment to the beneficiaries of the revenues arising from the utility project property (discussed in detail, below) if the beneficiaries apply for payment of the revenues under a lien. This may apply to a successor entity as well. If a local agency that has outstanding utility cost containment bonds ceases to operate a water or wastewater utility, directly or through its publicly owned utility, any successor entity must assume and perform all obligations of the local agency and its publicly

owned utility and assume the servicing agreement with the authority while the utility cost containment bonds remain outstanding.

Utility Project Charges

In the financing resolution, the authority must impose a utility project charge sufficient to ensure timely payment of all financing costs with respect to utility cost containment bonds. The charge must be based on estimates of water or wastewater service usage. The authority may require information from the local agency or its publicly owned utility to establish the charge.

The utility project charge is a nonbypassable charge on all present and future customers of the publicly owned utility in the class or classes of customers specified in the financing resolution at the time of its adoption. If a customer who is subject to the charge enters into an agreement to purchase water or wastewater service from a supplier other than the publicly owned utility, the customer remains liable for payment of the charge if the customer continues to receive any service from the publicly owned utility for the transmission, distribution, processing, delivery, or metering of the underlying water or wastewater service (for example, if the customer gets a well or if a competitor were allowed to also serve the area).

At least annually, and at any other interval specified in the financing resolution and related documents, the authority must determine whether adjustments to the utility project charge are required and, if so, make the necessary adjustments to correct for any overcollection or undercollection of financing costs from the charge or to otherwise ensure timely payment of the financing costs of the bonds, including payment of any required debt service coverage. The authority may require information from the local agency or its publicly owned utility to adjust the charge. If an adjustment is deemed necessary, it must be made using the methodology specified in the financing resolution. An adjustment may not impose the charge upon a class of customers not previously subject to the charge under the financing resolution.

Revenues from a utility project charge are deemed special revenues of the authority and do not constitute revenue of the local agency or its publicly owned utility for any purpose. The local agency or its publicly owned utility must act as a servicing agent for collecting the charge pursuant to a servicing agreement to be required by the financing resolution. The local agency or its publicly owned utility is authorized to use its established collection policies and remedies under law to enforce collection of the charge. The money collected must be held in trust for the exclusive benefit of the persons entitled to have the financing costs paid from the utility project charge.

The timely and complete payment of all utility project charges by the customer is a condition of receiving water or wastewater service from the publicly owned utility. A customer liable for a utility project charge is not permitted to withhold payment of any portion of the charge.

The pledge of a utility project charge to secure payment of utility cost containment bonds is irrevocable, and the state or any other entity is not permitted to reduce, impair, or otherwise adjust the utility project charge, except for the periodic adjustments that the authority is required to make pursuant to the financing resolution.

Utility Project Property

The utility project charge constitutes utility project property when a financing resolution authorizing the charge becomes effective. Utility project property constitutes property, including contracts that secure utility cost containment bonds, whether or not the revenues and proceeds arising with respect to the utility project property have accrued. The utility project property continuously exists as property for all purposes for the period provided in the financing resolution or until all financing costs with respect to the related utility cost containment bonds are paid in full, whichever occurs first.

Upon the effective date of the financing resolution, the utility project property is subject to a first priority statutory lien to secure the payment of the utility cost containment bonds. The lien secures the payment of all financing costs that exist at that time or that subsequently arise to the holders of the bonds, the trustee or representative for the holders of the bonds, and any other entity specified in the financing resolution or the documents relating to the bonds. The lien attaches to the utility project property regardless of the current ownership of the utility project property, including any local agency or its publicly owned utility, the authority, or other person.

Upon the effective date of the financing resolution, the lien is valid and enforceable against the owner of the utility project property and all third parties, and additional public notice is not required. The lien is a continuously perfected lien on all revenues and proceeds generated from the utility project property, regardless of whether the revenues or proceeds have accrued.

All revenues with respect to utility project property related to utility cost containment bonds, including payments of the utility project charge, must first be applied to the payment of the financing costs of the bonds then due, including the funding of reserves for the bonds. Any excess revenues will be applied as determined by the authority for the benefit of the utility for which the bonds were issued.

Utility Cost Containment Bonds

The proceeds of utility cost containment bonds made available to the local agency or its publicly owned utility must be used for the utility project identified in the application for financing of the project or used to refinance indebtedness of the local agency that financed or refinanced the project. The bonds must be issued pursuant to the provisions of the bill and the procedures specified for intergovernmental utility authorities under s. 163.01(7)(g)8., F.S., and may be validated pursuant to existing procedures for such entities under s. 163.01(7)(g)9., F.S.

The authority must pledge all utility project property as security for payment of the bonds. All rights of the authority with respect to the pledged property are for the benefit of and enforceable by the beneficiaries of the pledge as provided in the related financing documents.

If utility project property is pledged as security for the payment of utility cost containment bonds, the local agency or its publicly owned utility must enter into a contract with the authority which requires that the local agency or its utility:

- Continue to operate the utility, including the utility project that is being financed or refinanced;

- Collect the utility project charge from customers for the benefit and account of the authority and the beneficiaries of the pledge of the charge, and
- Separately account for and remit revenue from the utility project charge to, or for the account of, the authority.

The utility cost containment bonds are nonrecourse to the credit or any assets of the local agency or the publicly owned utility but are payable from, and secured by a pledge of, the utility project property relating to the bonds and any additional security or credit enhancement specified in the documents relating to the bonds. If the authority is financing the project through a single-purpose limited liability company, the bonds are payable from, and secured by, a pledge of amounts paid by the company to the authority from the applicable utility project property. This represents the exclusive method of perfecting a pledge of utility project property by the company.

The issuance of utility cost containment bonds does not obligate the state or any political subdivision of the state to levy or to pledge any form of taxation to pay the bonds or to make any appropriation for their payment. Each bond must contain on its face the following statement or a similar statement: “Neither the full faith and credit nor the taxing power of the State of Florida or any political subdivision thereof is pledged to the payment of the principal of, or interest on, this bond.”

The authority may not rescind, alter, or amend any resolution or document that pledges utility cost charges for payment of utility cost containment bonds.

Subject to the terms of the pledge document, the validity and relative priority of a pledge is not defeated or adversely affected by the commingling of revenues generated by the utility project property with other funds of the local agency or the publicly owned utility collecting a utility project charge on behalf of an authority.

Financing costs in connection with utility cost containment bonds are a special obligation of the authority and do not constitute a liability of the state or any political subdivision of the state. Financing costs are not a pledge of the full faith and credit of the state or any political subdivision, including the authority, but are payable solely from the funds identified in the documents relating to the bonds. This does not preclude guarantees or credit enhancements in connection with the bonds.

Except as provided in the bill with respect to adjustments to a utility project charge, recovery of the financing costs for utility cost containment bonds from the utility project charge is irrevocable. Further, the authority is prohibited from: rescinding, altering, or amending the applicable financing resolution to revalue or revise the financing costs of the bonds for ratemaking purposes; determining that the financing costs for the related bonds or the utility project charge is unjust or unreasonable; or in any way reducing or impairing the value of utility project property that includes the charge. The amount of revenues arising with respect to the financing costs for the related bonds or the charge are not subject to reduction, impairment, postponement, or termination for any reason until all financing costs to be paid from the charge are fully met and discharged.

Further, except as provided in the bill with respect to adjustments to a utility project charge, the bill establishes a pledge that the state may not limit or alter the financing costs or the utility project property, including the utility project charge associated with the bonds, or any rights related to the utility project property until all financing costs with respect to the bonds are fully discharged. This provision does not preclude limitation or alteration if adequate provision is made by law to protect the owners of the bonds. The state's pledge may be included by the authority in the governing documents for the bonds.

Bankruptcy Prohibition

Notwithstanding any other law, an authority that has issued utility cost containment bonds may not become a debtor under the United States Bankruptcy Code or become the subject of any similar case or proceeding under any other state or federal law if any payment obligation from utility project property remains with respect to the bonds. Further, a governmental officer or organization may not authorize the authority to become such a debtor or become subject to such a case or proceeding in this circumstance.

Petition for Revocation of Certificate of Authorization

CS/SB 324 amends s. 367.072, F.S., to provide that it is within the public interest for water service to be priced at a rate that is commensurate with the market and quality of service provided. The bill contains a legislative declaration that the residents of the state have a right to participate in the selection of their water service provider.

Upon the receipt of a properly filed petition for revocation of a utility's certificate of authorization, the PSC must send a copy of the petition to the county where the customers are located and notify the county of its right to initiate condemnation by eminent domain proceedings. The county may deem it a public necessity to exercise its eminent domain authority and bring the utility under county ownership.

Based on its evaluation of the petition, the PSC may dismiss the petition or revoke the utility's certificate of authorization and appoint receiver until the sale of the utility system is approved pursuant to s. 367.071, F.S.; the bill removes the PSC's authority to require the utility to take steps to correct the quality of the water service.

Construction

The bill provides for its liberal construction to effectively carry out its intent and purposes. Further, the bill expressly grants and confers upon public entities all incidental powers necessary to carry the bill into effect.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Customers may benefit from lower financing costs for local agency utility projects, if the resulting savings are passed through to customers. CS/SB 324 does not require that savings be passed through to customers.

Once utility cost containment bonds are issued, a customer will be obligated to pay the charge for as long as he or she resides on property within the service territory.

C. Government Sector Impact:

CS/SB 324 may reduce local government expenditures by reducing financing costs for water or wastewater utility projects for utilities owned and operated by a local agency, including any municipality, county, special district, public corporation, regional water authority, or other governmental entity sponsoring or refinancing a utility project.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 153.03 and 367.072.

The bill also creates an as-yet unnumbered section of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on February 8, 2016:

The CS amends the definition of “authority” to mean an entity created under s. 163.01(7)(g), F.S., or a separate legal entity created by one or more local agencies. The CS requires the PSC to notify a county when a petition for revocation is filed and clarifies that counties can condemn a utility through eminent domain proceedings after a petition for revocation is filed with the PSC. The CS makes findings that water service should be priced at a rate commensurate with the market and quality of the service provided and that customers have a right to participate in the selection of their water service provider. The CS removes the option of the PSC to require a utility to take necessary steps to correct quality of water service after finding that the utility is not providing quality of water service.

- B. **Amendments:**

None.



821108

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/09/2016	.	
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The Committee on Finance and Tax (Soto) recommended the following:

Senate Amendment

Delete lines 73 - 76
and insert:
163.01(7)(g), Florida Statutes, or a separate legal entity
created by one or more local agencies. The term also includes
any successor to the powers and functions of such an entity.



806856

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/09/2016	.	
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The Committee on Finance and Tax (Simpson) recommended the following:

Senate Amendment (with title amendment)

Between lines 556 and 557

insert:

Section 2. Subsection (5) of section 153.03, Florida Statutes, is amended to read:

153.03 General grant of power.—Any of the several counties of the state which may hereafter come under the provisions of this chapter as hereinafter provided is hereby authorized and empowered:



806856

11 (5) To acquire in the name of the county by gift, purchase
12 as hereinafter provided, or by the exercise of the right of
13 eminent domain, such lands and rights and interests therein,
14 including lands under water and riparian rights, and to acquire
15 such personal property as it may deem necessary for the
16 efficient operation or for the extension of or the improvement
17 of any facility purchased or constructed under the provisions of
18 this chapter and to hold and dispose of all real and personal
19 property under its control. Counties may also exercise such
20 eminent domain rights pursuant to an action initiated under s.
21 367.072. provided, However, ~~that~~ no county shall have the right
22 to exercise the right of eminent domain over any such lands or
23 rights or interests therein or any personal property owned by
24 any municipality within the state nor to exercise such right
25 with respect to any privately owned water supply system or
26 sewage disposal system including without limitation ponds,
27 streams and surface waters constituting a part thereof, provided
28 any such system is primarily used, owned or operated by an
29 industrial or manufacturing plant for its own use as a water
30 supply system or in disposing of its industrial wastes.

31 Section 3. Section 367.072, Florida Statutes, is amended to
32 read:

33 367.072 Petition to revoke certificate of authorization;
34 condemnation.—The Legislature finds that it is in the public
35 interest that water service be of good quality, be priced at a
36 rate that is commensurate with the market and the quality of
37 service provided, and be consistent with the standards set forth
38 in this chapter. Furthermore, the Legislature declares that the
39 residents of the state have a right to participate in the



806856

40 selection of their water service provider. Therefore, a
41 utility's certificate of authorization to provide water service
42 may be revoked ~~if,~~ after its customers file a petition to revoke
43 a certificate of authorization with the commission, ~~the~~
44 ~~commission finds that revocation is in the best interest of the~~
45 ~~customers in accordance with this section.~~ Upon the filing of
46 such petition, and owing to the demonstrated dissatisfaction
47 with the water service received by such customers, the county
48 where the customers are located also may deem it a public
49 necessity that the utility be brought under county ownership,
50 and may, upon its own election, begin condemnation by eminent
51 domain proceedings against the utility. As used in this section,
52 the term "customer" means an individual whose property is
53 serviced by a single meter or a person whose name appears on the
54 bill for a master meter.

55 (1) (a) If the commission receives a letter from the
56 customers of a utility stating their intent to file a petition
57 pursuant to this section, the commission staff, within 10 days
58 after receipt of the letter, shall notify the utility of the
59 customers' intent to file a petition.

60 (b) Commission staff shall send to the customers
61 instructions regarding the information required on the petition
62 and the subsequent process the commission will follow. The
63 petition must be filed within 90 days after the receipt of the
64 instructions. Commission staff shall review the petition and
65 notify the customers within 10 days after receipt of the
66 petition that the petition is sufficient for the commission to
67 act or that additional information is necessary. The customers
68 must file a cured petition within 30 days after receipt of the



69 notice to cure and provide a copy of the petition to the
70 utility. If the customers fail to file or refile a petition
71 within the allotted time, the commission shall dismiss the
72 petition with prejudice, and the customers may not file another
73 petition for 1 year after the dismissal.

74 (c) Upon receipt of a properly filed petition, the
75 commission shall send to the county where the customers are
76 located a copy of the petition and notify such county of its
77 right to initiate condemnation by eminent domain proceedings
78 pursuant to this section and s. 153.03.

79 (2) A petition must:

80 (a) State with specificity each issue that customers have
81 with the quality of water service, each time the issue was
82 reported to the utility, and how long each issue has existed;
83 and

84 (b) Be signed by at least 65 percent of the customers of
85 the service area covered under the certificate of authorization.
86 A person whose name appears on the bill for a master meter may
87 sign a petition if at least 65 percent of the customers,
88 tenants, or unit owners served by the master meter support the
89 petition, in which case documentation of such support must be
90 included with the petition.

91 (3) If the petition is in compliance with this section and
92 the issues identified within the petition support a reasonable
93 likelihood that the utility is failing to provide quality of
94 water service, the utility shall thereafter be prohibited from
95 filing a rate case until the commission has issued a final order
96 addressing the issues identified in the petition. The utility
97 shall use the following criteria in preparing a response to the



806856

98 commission, addressing the issues identified within the petition
99 and defending the quality of its water service:

100 (a) Federal and state primary water quality standards or
101 secondary water quality standards pursuant to s. 367.0812; and

102 (b) The relationship between the utility and its customers,
103 including each complaint received regarding the quality of water
104 service, the length of time each customer has been complaining
105 about the service, the resolution of each complaint, and the
106 time it has taken to address such complaints.

107 (4) The commission shall evaluate the issues identified in
108 the petition, the utility's response as to whether it is
109 providing quality of water service, and any other factor the
110 commission deems relevant.

111 (5) Based upon its evaluation, the commission shall:

112 (a) Dismiss the petition, in which case the decision must
113 be supported by clear and convincing evidence and is subject to
114 ss. 120.569 and 120.57; or

115 ~~(b) Require the utility to take the necessary steps to~~
116 ~~correct the quality of water service issues identified in the~~
117 ~~petition. The commission shall set benchmarks within a~~
118 ~~timeframe, not to exceed 3 years, and may require the utility to~~
119 ~~provide interim reports describing its progress in meeting such~~
120 ~~benchmarks. The commission may extend the term 3 years for~~
121 ~~circumstances that delay the project which are not in the~~
122 ~~control of the utility, such as natural disasters and obtaining~~
123 ~~permits necessary for meeting such benchmarks; or~~

124 (b)(e) Notwithstanding s. 367.045, revoke the utility's
125 certificate of authorization, in which case, any condemnation
126 proceedings initiated pursuant to this section must be dismissed



806856

127 and a receiver must be appointed pursuant to s. 367.165 until a
128 sale of the utility system has been approved pursuant to s.
129 367.071.

130 (6) The commission shall adopt by rule the format of and
131 requirements for a petition and may adopt other rules to
132 administer this section.

133

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

135 And the title is amended as follows:

136 Between lines 63 and 64

137 insert:

138 amending s. 153.03, F.S.; clarifying that counties may
139 initiate eminent domain over water utilities under
140 certain circumstances; amending s. 367.072, F.S.;
141 revising legislative findings; authorizing counties to
142 initiate condemnation proceedings under certain
143 circumstances; requiring the Florida Public Service
144 Commission to notify counties of certain petitions;
145 requiring dismissal of condemnation proceedings under
146 certain circumstances;



737306

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
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The Committee on Finance and Tax (Simpson) recommended the following:

1 **Senate Substitute for Amendment (806856) (with title**
2 **amendment)**

3
4 Delete lines 73 - 556
5 and insert:

6 163.01(7)(g), Florida Statutes, or a separate legal entity
7 created by one or more local agencies. The term includes any
8 successor to the powers and functions of such an entity.

9 (b) "Cost," as applied to a utility project or a portion of
10 a utility project financed under this section, means:



737306

- 11 1. Any part of the expense of constructing, renovating, or
12 acquiring lands, structures, real or personal property, rights,
13 rights-of-way, franchises, easements, and interests acquired or
14 used for a utility project;
- 15 2. The expense of demolishing or removing any buildings or
16 structures on acquired land, including the expense of acquiring
17 any lands to which the buildings or structures may be moved, and
18 the cost of all machinery and equipment used for the demolition
19 or removal;
- 20 3. Finance charges;
- 21 4. Interest, as determined by the authority;
- 22 5. Provisions for working capital and debt service
23 reserves;
- 24 6. Expenses for extensions, enlargements, additions,
25 replacements, renovations, and improvements;
- 26 7. Expenses for architectural, engineering, financial,
27 accounting, and legal services, plans, specifications,
28 estimates, and administration; or
- 29 8. Any other expenses necessary or incidental to
30 determining the feasibility of constructing a utility project or
31 incidental to the construction, acquisition, or financing of a
32 utility project.
- 33 (c) "Customer" means a person receiving water or wastewater
34 service from a publicly owned utility.
- 35 (d) "Finance" or "financing" includes refinancing.
- 36 (e) "Financing cost" means:
- 37 1. Interest and redemption premiums that are payable on
38 utility cost containment bonds;
- 39 2. The cost of retiring the principal of utility cost



737306

40 containment bonds, whether at maturity, including acceleration
41 of maturity upon an event of default, or upon redemption,
42 including sinking fund redemption;

43 3. The cost related to issuing or servicing utility cost
44 containment bonds, including any payment under an interest rate
45 swap agreement and any type of fee;

46 4. A payment or expense associated with a bond insurance
47 policy; financial guaranty; contract, agreement, or other credit
48 or liquidity enhancement for bonds; or contract, agreement, or
49 other financial agreement entered into in connection with
50 utility cost containment bonds;

51 5. Any coverage charges; or

52 6. The funding of one or more reserve accounts relating to
53 utility cost containment bonds.

54 (f) "Financing resolution" means a resolution adopted by
55 the governing body of an authority that provides for the
56 financing or refinancing of a utility project with utility cost
57 containment bonds and that imposes a utility project charge in
58 connection with the utility cost containment bonds in accordance
59 with subsection (4). A financing resolution may be separate from
60 a resolution authorizing the issuance of the bonds.

61 (g) "Governing body" means the body that governs a local
62 agency.

63 (h) "Local agency" means a member of the authority, or an
64 agency or subdivision of that member, which is sponsoring or
65 refinancing a utility project, or any municipality, county,
66 authority, special district, public corporation, regional water
67 authority, or other governmental entity of the state that is
68 sponsoring or refinancing a utility project.



737306

69 (i) "Public utility services" means water or wastewater
70 services provided by a publicly owned utility. The term does not
71 include communications services, as defined in s. 202.11,
72 Florida Statutes, Internet access services, or information
73 services.

74 (j) "Publicly owned utility" means a utility providing
75 retail or wholesale water or wastewater services which is owned
76 and operated by a local agency. The term includes any successor
77 to the powers and functions of such a utility.

78 (k) "Revenue" means income and receipts of the authority
79 related to the financing of utility projects and issuance of
80 utility cost containment bonds, including any of the following:

- 81 1. Bond purchase agreements;
- 82 2. Bonds acquired by the authority;
- 83 3. Installment sales agreements and other revenue-producing
84 agreements entered into by the authority;
- 85 4. Utility projects financed or refinanced by the
86 authority;
- 87 5. Grants and other sources of income;
- 88 6. Moneys paid by a local agency;
- 89 7. Interlocal agreements with a local agency, including all
90 service agreements; or
- 91 8. Interest or other income from any investment of money in
92 any fund or account established for the payment of principal,
93 interest, or premiums on utility cost containment bonds, or the
94 deposit of proceeds of utility cost containment bonds.

95 (l) "Utility cost containment bonds" means bonds, notes,
96 commercial paper, variable rate securities, and any other
97 evidence of indebtedness issued by an authority the proceeds of



737306

98 which are used directly or indirectly to pay or reimburse a
99 local agency or its publicly owned utility for the costs of a
100 utility project and which are secured by a pledge of, and are
101 payable from, utility project property.

102 (m) "Utility project" means the acquisition, construction,
103 installation, retrofitting, rebuilding, or other addition to or
104 improvement of any equipment, device, structure, process,
105 facility, technology, rights, or property located within or
106 outside this state which is used in connection with the
107 operations of a publicly owned utility.

108 (n) "Utility project charge" means a charge levied on
109 customers of a publicly owned utility to pay the financing costs
110 of utility cost containment bonds issued under subsection (4).
111 The term includes any adjustments to the utility project charge
112 made under subsection (5).

113 (o) "Utility project property" means the property right
114 created pursuant to subsection (6). The term does not include
115 any interest in a customer's real or personal property but
116 includes the right, title, and interest of an authority in any
117 of the following:

118 1. The financing resolution, the utility project charge,
119 and any adjustment to the utility project charge established in
120 accordance with subsection (5);

121 2. The financing costs of the utility cost containment
122 bonds and all revenues, and all collections, claims, payments,
123 moneys, or proceeds for, or arising from, the utility project
124 charge; or

125 3. All rights to obtain adjustments to the utility project
126 charge pursuant to subsection (5).



737306

127 (3) UTILITY PROJECTS.-

128 (a) A local agency that owns and operates a publicly owned
129 utility may apply to an authority to finance the costs of a
130 utility project using the proceeds of utility cost containment
131 bonds. In its application to the authority, the local agency
132 shall specify the utility project to be financed by the utility
133 cost containment bonds and the maximum principal amount, the
134 maximum interest rate, and the maximum stated terms of the
135 utility cost containment bonds.

136 (b) A local agency may not apply to an authority for the
137 financing of a utility project under this section unless the
138 governing body has determined, in a duly noticed public meeting,
139 all of the following:

140 1. The project to be financed is a utility project.

141 2. The local agency will finance costs of the utility
142 project, and the costs associated with the financing will be
143 paid from utility project property, including the utility
144 project charge for the utility cost containment bonds.

145 3. Based on the best information available to the governing
146 body, the rates charged to the local agency's retail customers
147 by the publicly owned utility, including the utility project
148 charge resulting from the financing of the utility project with
149 utility cost containment bonds, are expected to be lower than
150 the rates that would be charged if the project were financed
151 with bonds payable from revenues of the publicly owned utility.

152 (c) A determination by the governing body that a project to
153 be financed with utility cost containment bonds is a utility
154 project is final and conclusive, and the utility cost
155 containment bonds issued to finance the utility project and the



737306

156 utility project charge are valid and enforceable as set forth in
157 the financing resolution and the documents relating to the
158 utility cost containment bonds.

159 (d) If a local agency that has outstanding utility cost
160 containment bonds ceases to operate a water or wastewater
161 utility, directly or through its publicly owned utility,
162 references in this section to the local agency or to its
163 publicly owned utility must be to the successor entity. The
164 successor entity shall assume and perform all obligations of the
165 local agency and its publicly owned utility required by this
166 section and shall assume the servicing agreement required under
167 subsection (4) while the utility cost containment bonds remain
168 outstanding.

169 (4) FINANCING UTILITY PROJECTS.—

170 (a) An authority may issue utility cost containment bonds
171 to finance or refinance utility projects; refinance debt of a
172 local agency incurred in financing or refinancing utility
173 projects, provided such refinancing results in present value
174 savings to the local agency; or, with the approval of the local
175 agency, refinance previously issued utility cost containment
176 bonds.

177 1. To finance a utility project, the authority may:

178 a. Form a single-purpose limited liability company and
179 authorize the company to adopt the financing resolution of such
180 utility project; or

181 b. Create a new single-purpose entity by interlocal
182 agreement under s. 163.01, Florida Statutes, the membership of
183 which shall consist of the authority and two or more of its
184 members or other public agencies.



737306

185 2. A single-purpose limited liability company or a single-
186 purpose entity may be created by the authority solely for the
187 purpose of performing the duties and responsibilities of the
188 authority specified in this section and constitutes an authority
189 for all purposes of this section. Reference to the authority
190 includes a company or entity created under this paragraph.

191 (b) The governing body of an authority that is financing
192 the costs of a utility project shall adopt a financing
193 resolution and shall impose a utility project charge as
194 described in subsection (5). All provisions of a financing
195 resolution adopted pursuant to this section are binding on the
196 authority.

197 1. The financing resolution must:

198 a. Provide a brief description of the financial calculation
199 method the authority will use in determining the utility project
200 charge. The calculation method must include a periodic
201 adjustment methodology to be applied at least annually to the
202 utility project charge. The authority shall establish the
203 allocation of the utility project charge among classes of
204 customers of the publicly owned utility. The decision of the
205 authority is final and conclusive, and the method of calculating
206 the utility project charge and the periodic adjustment may not
207 be changed;

208 b. Require each customer in the class or classes of
209 customers specified in the financing resolution who receives
210 water or wastewater service through the publicly owned utility
211 to pay the utility project charge regardless of whether the
212 customer has an agreement to receive water or wastewater service
213 from a person other than the publicly owned utility;



737306

214 c. Require that the utility project charge be charged
215 separately from other charges on the bill of customers of the
216 publicly owned utility in the class or classes of customers
217 specified in the financing resolution; and

218 d. Require that the authority enter into a servicing
219 agreement with the local agency or its publicly owned utility to
220 collect the utility project charge.

221 2. The authority may require in the financing resolution
222 that, in the event of a default by the local agency or its
223 publicly owned utility with respect to revenues from the utility
224 project property, the authority, upon application by the
225 beneficiaries of the statutory lien as set forth in subsection
226 (6), shall order the sequestration and payment to the
227 beneficiaries of revenues arising from utility project property.
228 This subparagraph does not limit any other remedies available to
229 the beneficiaries by reason of default.

230 (c) An authority has all the powers provided in this
231 section and s. 163.01(7)(g), Florida Statutes.

232 (d) Each authority shall work with local agencies that
233 request assistance to determine the most cost-effective manner
234 of financing regional water projects. If the entities determine
235 that the issuance of utility cost containment bonds will result
236 in lower financing costs for a project, the authority shall
237 cooperate with such local agencies and, if requested by the
238 local agencies, issue utility cost containment bonds as provided
239 in this section.

240 (5) UTILITY PROJECT CHARGE.—

241 (a) The authority shall impose a sufficient utility project
242 charge, based on estimates of water or wastewater service usage,



243 to ensure timely payment of all financing costs with respect to
244 utility cost containment bonds. The local agency or its publicly
245 owned utility shall provide the authority with information
246 concerning the publicly owned utility which may be required by
247 the authority in establishing the utility project charge.

248 (b) The utility project charge is a nonbypassable charge to
249 all present and future customers of the publicly owned utility
250 in the class or classes of customers specified in the financing
251 resolution upon its adoption. If the regulatory structure for
252 the water or wastewater industry changes in a manner that
253 authorizes a customer to choose to take service from an
254 alternative supplier and the customer chooses an alternative
255 supplier, the customer remains liable for paying the utility
256 project charge if the customer continues to receive any service
257 from the publicly owned utility for the transmission,
258 distribution, processing, delivery, or metering of the
259 underlying water or wastewater service.

260 (c) The authority shall determine at least annually and at
261 such additional intervals as provided in the financing
262 resolution and documents related to the applicable utility cost
263 containment bonds whether adjustments to the utility project
264 charge are required. The authority shall use the adjustment to
265 correct for any overcollection or undercollection of financing
266 costs from the utility project charge or to make any other
267 adjustment necessary to ensure the timely payment of the
268 financing costs of the utility cost containment bonds, including
269 adjustment of the utility project charge to pay any debt service
270 coverage requirement for the utility cost containment bonds. The
271 local agency or its publicly owned utility shall provide the



737306

272 authority with information concerning the publicly owned utility
273 which may be required by the authority in adjusting the utility
274 project charge.

275 1. If the authority determines that an adjustment to the
276 utility project charge is required, the adjustment must be made
277 using the methodology specified in the financing resolution.

278 2. The adjustment may not impose the utility project charge
279 on a class of customers which was not subject to the utility
280 project charge pursuant to the financing resolution imposing the
281 utility project charge.

282 (d) Revenues from a utility project charge are special
283 revenues of the authority and do not constitute revenue of the
284 local agency or its publicly owned utility for any purpose,
285 including any dedication, commitment, or pledge of revenue,
286 receipts, or other income that the local agency or its publicly
287 owned utility has made or will make for the security of any of
288 its obligations.

289 (e) The local agency or its publicly owned utility shall
290 act as a servicing agent for collecting the utility project
291 charge throughout the duration of the servicing agreement
292 required by the financing resolution. The local agency or its
293 publicly owned utility shall hold the money collected in trust
294 for the exclusive benefit of the persons entitled to have the
295 financing costs paid from the utility project charge, and the
296 money does not lose its designation as revenues of the authority
297 by virtue of possession by the local agency or its publicly
298 owned utility.

299 (f) The customer must make timely and complete payment of
300 all utility project charges as a condition of receiving water or



737306

301 wastewater service from the publicly owned utility. The local
302 agency or its publicly owned utility may use its established
303 collection policies and remedies provided under law to enforce
304 collection of the utility project charge. A customer liable for
305 a utility project charge may not withhold payment, in whole or
306 in part, thereof.

307 (g) The pledge of a utility project charge to secure
308 payment of utility cost containment bonds is irrevocable, and
309 the state, or any other entity, may not reduce, impair, or
310 otherwise adjust the utility project charge, except that the
311 authority shall implement the periodic adjustments to the
312 utility project charge as provided under this subsection.

313 (6) UTILITY PROJECT PROPERTY.—

314 (a) A utility project charge constitutes utility project
315 property on the effective date of the financing resolution
316 authorizing such utility project charge. Utility project
317 property constitutes property, including contracts for securing
318 utility cost containment bonds, regardless of whether the
319 revenues and proceeds arising with respect to the utility
320 project property have accrued. Utility project property shall
321 continuously exist as property for all purposes with all of the
322 rights and privileges of this section through the end of the
323 period provided in the financing resolution or until all
324 financing costs with respect to the related utility cost
325 containment bonds are paid in full, whichever occurs first.

326 (b) Upon the effective date of the financing resolution,
327 the utility project property is subject to a first-priority
328 statutory lien to secure the payment of the utility cost
329 containment bonds.



737306

330 1. The lien secures the payment of all financing costs then
331 existing or subsequently arising to the holders of the utility
332 cost containment bonds, the trustees or representatives of the
333 holders of the utility cost containment bonds, and any other
334 entity specified in the financing resolution or the documents
335 relating to the utility cost containment bonds.

336 2. The lien attaches to the utility project property
337 regardless of the current ownership of the utility project
338 property, including any local agency or its publicly owned
339 utility, the authority, or any other person.

340 3. Upon the effective date of the financing resolution, the
341 lien is valid and enforceable against the owner of the utility
342 project property and all third parties, and additional public
343 notice is not required.

344 4. The lien is a continuously perfected lien on all
345 revenues and proceeds generated from the utility project
346 property regardless of whether the revenues or proceeds have
347 accrued.

348 (c) All revenues with respect to utility project property
349 related to utility cost containment bonds, including payments of
350 the utility project charge, shall be applied first to the
351 payment of the financing costs of the utility cost containment
352 bonds then due, including the funding of reserves for the
353 utility cost containment bonds. Any excess revenues shall be
354 applied as determined by the authority for the benefit of the
355 utility for which the utility cost containment bonds were
356 issued.

357 (7) UTILITY COST CONTAINMENT BONDS.—

358 (a) Utility cost containment bonds shall be issued within



737306

359 the parameters of the financing provided by the authority
360 pursuant to this section. The proceeds of the utility cost
361 containment bonds made available to the local agency or its
362 publicly owned utility shall be used for the utility project
363 identified in the application for financing of the utility
364 project or used to refinance indebtedness of the local agency
365 which financed or refinanced utility projects.

366 (b) Utility cost containment bonds shall be issued as set
367 forth in this section and s. 163.01(7)(g)8., Florida Statutes,
368 and may be validated pursuant to s. 163.01(7)(g)9., Florida
369 Statutes.

370 (c) The authority shall pledge the utility project property
371 as security for the payment of the utility cost containment
372 bonds. All rights of an authority with respect to utility
373 project property pledged as security for the payment of utility
374 cost containment bonds shall be for the benefit of, and
375 enforceable by, the beneficiaries of the pledge to the extent
376 provided in the financing documents relating to the utility cost
377 containment bonds.

378 1. If utility project property is pledged as security for
379 the payment of utility cost containment bonds, the local agency
380 or its publicly owned utility shall enter into a contract with
381 the authority which requires, at a minimum, that the publicly
382 owned utility:

383 a. Continue to operate its publicly owned utility,
384 including the utility project that is being financed or
385 refinanced;

386 b. Collect the utility project charge from customers for
387 the benefit and account of the authority and the beneficiaries



737306

388 of the pledge of the utility project charge; and

389 c. Separately account for and remit revenue from the
390 utility project charge to, or for the account of, the authority.

391 2. The pledge of a utility project charge to secure payment
392 of utility cost containment bonds is irrevocable, and the state
393 or any other entity may not reduce, impair, or otherwise adjust
394 the utility project charge, except that the authority shall
395 implement periodic adjustments to the utility project charge as
396 provided under subsection (5).

397 (d) Utility cost containment bonds shall be nonrecourse to
398 the credit or any assets of the local agency or the publicly
399 owned utility but are payable from, and secured by a pledge of
400 the utility project property relating to the utility cost
401 containment bonds and any additional security or credit
402 enhancement specified in the documents relating to the utility
403 cost containment bonds. If, pursuant to subsection (4), the
404 authority is financing the project through a single-purpose
405 limited liability company, the utility cost containment bonds
406 shall be payable from, and secured by, a pledge of amounts paid
407 by the company to the authority from the applicable utility
408 project property. This paragraph is the exclusive method of
409 perfecting a pledge of utility project property by the company
410 securing the payment of financing costs under any agreement of
411 the company in connection with the issuance of utility cost
412 containment bonds.

413 (e) The issuance of utility cost containment bonds does not
414 obligate the state or any political subdivision thereof to levy
415 or to pledge any form of taxation to pay the utility cost
416 containment bonds or to make any appropriation for their



737306

417 payment. Each utility cost containment bond must contain on its
418 face a statement in substantially the following form:

419
420 "Neither the full faith and credit nor the taxing power of the
421 State of Florida or any political subdivision thereof is pledged
422 to the payment of the principal of, or interest on, this bond."
423

424 (f) Notwithstanding any other law or this section, a
425 financing resolution or other resolution of the authority, or
426 documents relating to utility cost containment bonds, the
427 authority may not rescind, alter, or amend any resolution or
428 document that pledges utility cost charges for payment of
429 utility cost containment bonds.

430 (g) Subject to the terms of any pledge document created
431 under this section, the validity and relative priority of a
432 pledge is not defeated or adversely affected by the commingling
433 of revenues generated by the utility project property with other
434 funds of the local agency or the publicly owned utility
435 collecting a utility project charge on behalf of an authority.

436 (h) Financing costs in connection with utility cost
437 containment bonds are a special obligation of the authority and
438 do not constitute a liability of the state or any political
439 subdivision thereof. Financing costs are not a pledge of the
440 full faith and credit of the state or any political subdivision
441 thereof, including the authority, but are payable solely from
442 the funds identified in the documents relating to the utility
443 cost containment bonds. This paragraph does not preclude
444 guarantees or credit enhancements in connection with utility
445 cost containment bonds.



737306

446 (i) Except as otherwise provided in this section with
447 respect to adjustments to a utility project charge, the recovery
448 of the financing costs for the utility cost containment bonds
449 from the utility project charge is irrevocable, and the
450 authority does not have the power, by rescinding, altering, or
451 amending the applicable financing resolution, to revalue or
452 revise for ratemaking purposes the financing costs of utility
453 cost containment bonds; to determine that the financing costs
454 for the related utility cost containment bonds or the utility
455 project charge is unjust or unreasonable; or to in any way,
456 either directly or indirectly, reduce or impair the value of
457 utility project property that includes the utility project
458 charge. The amount of revenues arising with respect to the
459 financing costs for the related utility cost containment bonds
460 or the utility project charge is not subject to reduction,
461 impairment, postponement, or termination for any reason until
462 all financing costs to be paid from the utility project charge
463 are fully met and discharged.

464 (j) Except as provided in subsection (5) with respect to
465 adjustments to a utility project charge, the state pledges and
466 agrees with the owners of utility cost containment bonds that
467 the state may not limit or alter the financing costs or the
468 utility project property, including the utility project charge,
469 relating to the utility cost containment bonds, or any rights
470 related to the utility project property, until all financing
471 costs with respect to the utility cost containment bonds are
472 fully met and discharged. This paragraph does not preclude
473 limitation or alteration if adequate provision is made by law to
474 protect the owners. The authority may include the state's pledge



737306

475 in the governing documents for utility cost containment bonds.

476 (8) LIMITATION ON DEBT RELIEF.—Notwithstanding any other
477 law, an authority that issued utility cost containment bonds may
478 not, and a governmental officer or organization may not
479 authorize the authority to, become a debtor under the United
480 States Bankruptcy Code or become the subject of any similar case
481 or proceeding under any other state or federal law if any
482 payment obligation from utility project property remains with
483 respect to the utility cost containment bonds.

484 (9) CONSTRUCTION.—This section and all grants of power and
485 authority in this section shall be liberally construed to
486 effectuate their purposes. All incidental powers necessary to
487 carry this section into effect are expressly granted to, and
488 conferred upon, public entities.

489 Section 2. Subsection (5) of section 153.03, Florida
490 Statutes, is amended to read:

491 153.03 General grant of power.—Any of the several counties
492 of the state which may hereafter come under the provisions of
493 this chapter as hereinafter provided is hereby authorized and
494 empowered:

495 (5) To acquire in the name of the county by gift, purchase
496 as hereinafter provided, or by the exercise of the right of
497 eminent domain, such lands and rights and interests therein,
498 including lands under water and riparian rights, and to acquire
499 such personal property as it may deem necessary for the
500 efficient operation or for the extension of or the improvement
501 of any facility purchased or constructed under the provisions of
502 this chapter and to hold and dispose of all real and personal
503 property under its control. Counties may also exercise such



737306

504 eminent domain rights pursuant to an action initiated under s.
505 367.072. provided, However, ~~that~~ no county shall have the right
506 to exercise the right of eminent domain over any such lands or
507 rights or interests therein or any personal property owned by
508 any municipality within the state nor to exercise such right
509 with respect to any privately owned water supply system or
510 sewage disposal system including without limitation ponds,
511 streams and surface waters constituting a part thereof, provided
512 any such system is primarily used, owned or operated by an
513 industrial or manufacturing plant for its own use as a water
514 supply system or in disposing of its industrial wastes.

515 Section 3. Section 367.072, Florida Statutes, is amended to
516 read:

517 367.072 Petition to revoke certificate of authorization;
518 condemnation.—The Legislature finds that it is in the public
519 interest that water service be of good quality, be priced at a
520 rate that is commensurate with the market and the quality of
521 service provided, and be consistent with the standards set forth
522 in this chapter. Furthermore, the Legislature declares that the
523 residents of the state have a right to participate in the
524 selection of their water service provider. Therefore, a
525 utility's certificate of authorization to provide water service
526 may be revoked ~~if,~~ after its customers file a petition to revoke
527 a certificate of authorization with the commission, ~~the~~
528 ~~commission finds that revocation is in the best interest of the~~
529 ~~customers in accordance with this section.~~ Upon the filing of
530 such petition, and owing to the demonstrated dissatisfaction
531 with the water service received by such customers, the county
532 where the customers are located also may deem it a public



737306

533 necessity that the utility be brought under county ownership,
534 and may, upon its own election, begin condemnation by eminent
535 domain proceedings against the utility. As used in this section,
536 the term "customer" means an individual whose property is
537 serviced by a single meter or a person whose name appears on the
538 bill for a master meter.

539 (1) (a) If the commission receives a letter from the
540 customers of a utility stating their intent to file a petition
541 pursuant to this section, the commission staff, within 10 days
542 after receipt of the letter, shall notify the utility of the
543 customers' intent to file a petition.

544 (b) Commission staff shall send to the customers
545 instructions regarding the information required on the petition
546 and the subsequent process the commission will follow. The
547 petition must be filed within 90 days after the receipt of the
548 instructions. Commission staff shall review the petition and
549 notify the customers within 10 days after receipt of the
550 petition that the petition is sufficient for the commission to
551 act or that additional information is necessary. The customers
552 must file a cured petition within 30 days after receipt of the
553 notice to cure and provide a copy of the petition to the
554 utility. If the customers fail to file or refile a petition
555 within the allotted time, the commission shall dismiss the
556 petition with prejudice, and the customers may not file another
557 petition for 1 year after the dismissal.

558 (c) Upon receipt of a properly filed petition, the
559 commission shall send to the county where the customers are
560 located a copy of the petition and notify such county of its
561 right to initiate condemnation by eminent domain proceedings



737306

562 pursuant to this section and s. 153.03.

563 (2) A petition must:

564 (a) State with specificity each issue that customers have
565 with the quality of water service, each time the issue was
566 reported to the utility, and how long each issue has existed;
567 and

568 (b) Be signed by at least 65 percent of the customers of
569 the service area covered under the certificate of authorization.
570 A person whose name appears on the bill for a master meter may
571 sign a petition if at least 65 percent of the customers,
572 tenants, or unit owners served by the master meter support the
573 petition, in which case documentation of such support must be
574 included with the petition.

575 (3) If the petition is in compliance with this section and
576 the issues identified within the petition support a reasonable
577 likelihood that the utility is failing to provide quality of
578 water service, the utility shall thereafter be prohibited from
579 filing a rate case until the commission has issued a final order
580 addressing the issues identified in the petition. The utility
581 shall use the following criteria in preparing a response to the
582 commission, addressing the issues identified within the petition
583 and defending the quality of its water service:

584 (a) Federal and state primary water quality standards or
585 secondary water quality standards pursuant to s. 367.0812; and

586 (b) The relationship between the utility and its customers,
587 including each complaint received regarding the quality of water
588 service, the length of time each customer has been complaining
589 about the service, the resolution of each complaint, and the
590 time it has taken to address such complaints.



737306

591 (4) The commission shall evaluate the issues identified in
592 the petition, the utility's response as to whether it is
593 providing quality of water service, and any other factor the
594 commission deems relevant.

595 (5) Based upon its evaluation, the commission shall:

596 (a) Dismiss the petition, in which case the decision must
597 be supported by clear and convincing evidence and is subject to
598 ss. 120.569 and 120.57; or

599 ~~(b) Require the utility to take the necessary steps to~~
600 ~~correct the quality of water service issues identified in the~~
601 ~~petition. The commission shall set benchmarks within a~~
602 ~~timeframe, not to exceed 3 years, and may require the utility to~~
603 ~~provide interim reports describing its progress in meeting such~~
604 ~~benchmarks. The commission may extend the term 3 years for~~
605 ~~circumstances that delay the project which are not in the~~
606 ~~control of the utility, such as natural disasters and obtaining~~
607 ~~permits necessary for meeting such benchmarks; or~~

608 (b)(e) Notwithstanding s. 367.045, revoke the utility's
609 certificate of authorization, in which case, any condemnation
610 proceedings initiated pursuant to this section must be dismissed
611 and a receiver must be appointed pursuant to s. 367.165 until a
612 sale of the utility system has been approved pursuant to s.
613 367.071.

614 (6) The commission shall adopt by rule the format of and
615 requirements for a petition and may adopt other rules to
616 administer this section.

617
618 ===== T I T L E A M E N D M E N T =====

619 And the title is amended as follows:



737306

620 Between lines 63 and 64
621 insert:
622 amending s. 153.03, F.S.; clarifying that counties may
623 initiate eminent domain over water utilities under
624 certain circumstances; amending s. 367.072, F.S.;
625 revising legislative findings; authorizing counties to
626 initiate condemnation proceedings under certain
627 circumstances; requiring the Florida Public Service
628 Commission to notify counties of petitions to revoke a
629 certificate of authorization; revising how the
630 commission must respond to such petitions; requiring
631 dismissal of condemnation proceedings under certain
632 circumstances;

By Senator Legg

17-00042-16

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1 A bill to be entitled
 2 An act relating to utility projects; providing a short
 3 title; defining terms; authorizing certain local
 4 governmental entities to finance the costs of a
 5 utility project by issuing utility cost containment
 6 bonds upon application by a local agency; specifying
 7 application requirements; requiring a successor entity
 8 of a local agency to assume and perform the
 9 obligations of the local agency with respect to the
 10 financing of a utility project; providing procedures
 11 for local agencies to use when applying to finance a
 12 utility project using utility cost containment bonds;
 13 authorizing an authority to issue utility cost
 14 containment bonds for specified purposes related to
 15 utility projects; authorizing an authority to form
 16 alternate entities to finance utility projects;
 17 requiring the governing body of the authority to adopt
 18 a financing resolution and impose a utility project
 19 charge on customers of a publicly owned utility as a
 20 condition of utility project financing; specifying
 21 required and optional provisions of the financing
 22 resolution; specifying powers of the authority;
 23 requiring the local agency or its publicly owned
 24 utility to assist the authority in the establishment
 25 or adjustment of the utility project charge; requiring
 26 that customers of the public utility specified in the
 27 financing resolution pay the utility project charge;
 28 providing for adjustment of the utility project
 29 charge; establishing ownership of the revenues of the

Page 1 of 20

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17-00042-16

2016324__

30 utility project charge; requiring the local agency or
 31 its publicly owned utility to collect the utility
 32 project charge; conditioning a customer's receipt of
 33 public utility services on payment of the utility
 34 project charge; authorizing a local agency or its
 35 publicly owned utility to use available remedies to
 36 enforce collection of the utility project charge;
 37 providing that the pledge of the utility project
 38 charge to secure payment of bonds issued to finance
 39 the utility project is irrevocable and cannot be
 40 reduced or impaired except under certain conditions;
 41 providing that a utility project charge constitutes
 42 utility project property; providing that utility
 43 project property is subject to a lien to secure
 44 payment of costs relating to utility cost containment
 45 bonds; establishing payment priorities for the use of
 46 revenues of the utility project property; providing
 47 for the issuance and validation of utility cost
 48 containment bonds; securing the payment of utility
 49 cost containment bonds and related costs; providing
 50 that utility cost containment bonds do not obligate
 51 the state or any political subdivision and are not
 52 backed by their full faith and credit and taxing
 53 power; requiring that certain disclosures be printed
 54 on utility cost containment bonds; providing that
 55 financing costs related to utility cost containment
 56 bonds are an obligation of the authority only;
 57 providing limitations on the state's ability to alter
 58 financing costs or utility project property under

Page 2 of 20

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17-00042-16

2016324__

59 certain circumstances; prohibiting an authority with
60 outstanding payment obligations on utility cost
61 containment bonds from becoming a debtor under certain
62 federal or state laws; providing for construction;
63 endowing public entities with certain powers;
64 providing an effective date.

65
66 Be It Enacted by the Legislature of the State of Florida:

67 Section 1. Utility Cost Containment Bond Act.-

68 (1) SHORT TITLE.-This section may be cited as the "Utility
69 Cost Containment Bond Act."

70 (2) DEFINITIONS.-As used in this section, the term:

71 (a) "Authority" means an entity created under s.
72 163.01(7)(g), Florida Statutes, which provides public utility
73 services and whose membership consists of at least three
74 counties. The term includes any successor to the powers and
75 functions of such an entity.

76 (b) "Cost," as applied to a utility project or a portion of
77 a utility project financed under this section, means:

78 1. Any part of the expense of constructing, renovating, or
79 acquiring lands, structures, real or personal property, rights,
80 rights-of-way, franchises, easements, and interests acquired or
81 used for a utility project;

82 2. The expense of demolishing or removing any buildings or
83 structures on acquired land, including the expense of acquiring
84 any lands to which the buildings or structures may be moved, and
85 the cost of all machinery and equipment used for the demolition
86 or removal;

87
Page 3 of 20

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17-00042-16

2016324__

88 3. Finance charges;
89 4. Interest, as determined by the authority;
90 5. Provisions for working capital and debt service
91 reserves;
92 6. Expenses for extensions, enlargements, additions,
93 replacements, renovations, and improvements;
94 7. Expenses for architectural, engineering, financial,
95 accounting, and legal services, plans, specifications,
96 estimates, and administration; or
97 8. Any other expenses necessary or incidental to
98 determining the feasibility of constructing a utility project or
99 incidental to the construction, acquisition, or financing of a
100 utility project.
101 (c) "Customer" means a person receiving water or wastewater
102 service from a publicly owned utility.
103 (d) "Finance" or "financing" includes refinancing.
104 (e) "Financing cost" means:
105 1. Interest and redemption premiums that are payable on
106 utility cost containment bonds;
107 2. The cost of retiring the principal of utility cost
108 containment bonds, whether at maturity, including acceleration
109 of maturity upon an event of default, or upon redemption,
110 including sinking fund redemption;
111 3. The cost related to issuing or servicing utility cost
112 containment bonds, including any payment under an interest rate
113 swap agreement and any type of fee;
114 4. A payment or expense associated with a bond insurance
115 policy; financial guaranty; contract, agreement, or other credit
116 or liquidity enhancement for bonds; or contract, agreement, or

Page 4 of 20

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17-00042-16

2016324__

117 other financial agreement entered into in connection with
 118 utility cost containment bonds;
 119 5. Any coverage charges; or
 120 6. The funding of one or more reserve accounts relating to
 121 utility cost containment bonds.
 122 (f) "Financing resolution" means a resolution adopted by
 123 the governing body of an authority that provides for the
 124 financing or refinancing of a utility project with utility cost
 125 containment bonds and that imposes a utility project charge in
 126 connection with the utility cost containment bonds in accordance
 127 with subsection (4). A financing resolution may be separate from
 128 a resolution authorizing the issuance of the bonds.
 129 (g) "Governing body" means the body that governs a local
 130 agency.
 131 (h) "Local agency" means a member of the authority, or an
 132 agency or subdivision of that member, which is sponsoring or
 133 refinancing a utility project, or any municipality, county,
 134 authority, special district, public corporation, regional water
 135 authority, or other governmental entity of the state that is
 136 sponsoring or refinancing a utility project.
 137 (i) "Public utility services" means water or wastewater
 138 services provided by a publicly owned utility. The term does not
 139 include communications services, as defined in s. 202.11,
 140 Florida Statutes, Internet access services, or information
 141 services.
 142 (j) "Publicly owned utility" means a utility providing
 143 retail or wholesale water or wastewater services which is owned
 144 and operated by a local agency. The term includes any successor
 145 to the powers and functions of such a utility.

Page 5 of 20

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17-00042-16

2016324__

146 (k) "Revenue" means income and receipts of the authority
 147 related to the financing of utility projects and issuance of
 148 utility cost containment bonds, including any of the following:
 149 1. Bond purchase agreements;
 150 2. Bonds acquired by the authority;
 151 3. Installment sales agreements and other revenue-producing
 152 agreements entered into by the authority;
 153 4. Utility projects financed or refinanced by the
 154 authority;
 155 5. Grants and other sources of income;
 156 6. Moneys paid by a local agency;
 157 7. Interlocal agreements with a local agency, including all
 158 service agreements; or
 159 8. Interest or other income from any investment of money in
 160 any fund or account established for the payment of principal,
 161 interest, or premiums on utility cost containment bonds, or the
 162 deposit of proceeds of utility cost containment bonds.
 163 (l) "Utility cost containment bonds" means bonds, notes,
 164 commercial paper, variable rate securities, and any other
 165 evidence of indebtedness issued by an authority the proceeds of
 166 which are used directly or indirectly to pay or reimburse a
 167 local agency or its publicly owned utility for the costs of a
 168 utility project and which are secured by a pledge of, and are
 169 payable from, utility project property.
 170 (m) "Utility project" means the acquisition, construction,
 171 installation, retrofitting, rebuilding, or other addition to or
 172 improvement of any equipment, device, structure, process,
 173 facility, technology, rights, or property located within or
 174 outside this state which is used in connection with the

Page 6 of 20

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17-00042-16

2016324__

175 operations of a publicly owned utility.
 176 (n) "Utility project charge" means a charge levied on
 177 customers of a publicly owned utility to pay the financing costs
 178 of utility cost containment bonds issued under subsection (4).
 179 The term includes any adjustments to the utility project charge
 180 made under subsection (5).
 181 (o) "Utility project property" means the property right
 182 created pursuant to subsection (6). The term does not include
 183 any interest in a customer's real or personal property but
 184 includes the right, title, and interest of an authority in any
 185 of the following:
 186 1. The financing resolution, the utility project charge,
 187 and any adjustment to the utility project charge established in
 188 accordance with subsection (5);
 189 2. The financing costs of the utility cost containment
 190 bonds and all revenues, and all collections, claims, payments,
 191 moneys, or proceeds for, or arising from, the utility project
 192 charge; or
 193 3. All rights to obtain adjustments to the utility project
 194 charge pursuant to subsection (5).
 195 (3) UTILITY PROJECTS.—
 196 (a) A local agency that owns and operates a publicly owned
 197 utility may apply to an authority to finance the costs of a
 198 utility project using the proceeds of utility cost containment
 199 bonds. In its application to the authority, the local agency
 200 shall specify the utility project to be financed by the utility
 201 cost containment bonds and the maximum principal amount, the
 202 maximum interest rate, and the maximum stated terms of the
 203 utility cost containment bonds.

Page 7 of 20

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17-00042-16

2016324__

204 (b) A local agency may not apply to an authority for the
 205 financing of a utility project under this section unless the
 206 governing body has determined, in a duly noticed public meeting,
 207 all of the following:
 208 1. The project to be financed is a utility project.
 209 2. The local agency will finance costs of the utility
 210 project, and the costs associated with the financing will be
 211 paid from utility project property, including the utility
 212 project charge for the utility cost containment bonds.
 213 3. Based on the best information available to the governing
 214 body, the rates charged to the local agency's retail customers
 215 by the publicly owned utility, including the utility project
 216 charge resulting from the financing of the utility project with
 217 utility cost containment bonds, are expected to be lower than
 218 the rates that would be charged if the project were financed
 219 with bonds payable from revenues of the publicly owned utility.
 220 (c) A determination by the governing body that a project to
 221 be financed with utility cost containment bonds is a utility
 222 project is final and conclusive, and the utility cost
 223 containment bonds issued to finance the utility project and the
 224 utility project charge are valid and enforceable as set forth in
 225 the financing resolution and the documents relating to the
 226 utility cost containment bonds.
 227 (d) If a local agency that has outstanding utility cost
 228 containment bonds ceases to operate a water or wastewater
 229 utility, directly or through its publicly owned utility,
 230 references in this section to the local agency or to its
 231 publicly owned utility must be to the successor entity. The
 232 successor entity shall assume and perform all obligations of the

Page 8 of 20

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17-00042-16 2016324__

233 local agency and its publicly owned utility required by this
 234 section and shall assume the servicing agreement required under
 235 subsection (4) while the utility cost containment bonds remain
 236 outstanding.

237 (4) FINANCING UTILITY PROJECTS.—

238 (a) An authority may issue utility cost containment bonds
 239 to finance or refinance utility projects; refinance debt of a
 240 local agency incurred in financing or refinancing utility
 241 projects, provided such refinancing results in present value
 242 savings to the local agency; or, with the approval of the local
 243 agency, refinance previously issued utility cost containment
 244 bonds.

245 1. To finance a utility project, the authority may:

246 a. Form a single-purpose limited liability company and
 247 authorize the company to adopt the financing resolution of such
 248 utility project; or

249 b. Create a new single-purpose entity by interlocal
 250 agreement under s. 163.01, Florida Statutes, the membership of
 251 which shall consist of the authority and two or more of its
 252 members or other public agencies.

253 2. A single-purpose limited liability company or a single-
 254 purpose entity may be created by the authority solely for the
 255 purpose of performing the duties and responsibilities of the
 256 authority specified in this section and constitutes an authority
 257 for all purposes of this section. Reference to the authority
 258 includes a company or entity created under this paragraph.

259 (b) The governing body of an authority that is financing
 260 the costs of a utility project shall adopt a financing
 261 resolution and shall impose a utility project charge as

17-00042-16 2016324__

262 described in subsection (5). All provisions of a financing
 263 resolution adopted pursuant to this section are binding on the
 264 authority.

265 1. The financing resolution must:

266 a. Provide a brief description of the financial calculation
 267 method the authority will use in determining the utility project
 268 charge. The calculation method must include a periodic
 269 adjustment methodology to be applied at least annually to the
 270 utility project charge. The authority shall establish the
 271 allocation of the utility project charge among classes of
 272 customers of the publicly owned utility. The decision of the
 273 authority is final and conclusive, and the method of calculating
 274 the utility project charge and the periodic adjustment may not
 275 be changed;

276 b. Require each customer in the class or classes of
 277 customers specified in the financing resolution who receives
 278 water or wastewater service through the publicly owned utility
 279 to pay the utility project charge regardless of whether the
 280 customer has an agreement to receive water or wastewater service
 281 from a person other than the publicly owned utility;

282 c. Require that the utility project charge be charged
 283 separately from other charges on the bill of customers of the
 284 publicly owned utility in the class or classes of customers
 285 specified in the financing resolution; and

286 d. Require that the authority enter into a servicing
 287 agreement with the local agency or its publicly owned utility to
 288 collect the utility project charge.

289 2. The authority may require in the financing resolution
 290 that, in the event of a default by the local agency or its

17-00042-16

2016324__

291 publicly owned utility with respect to revenues from the utility
 292 project property, the authority, upon application by the
 293 beneficiaries of the statutory lien as set forth in subsection
 294 (6), shall order the sequestration and payment to the
 295 beneficiaries of revenues arising from utility project property.
 296 This subparagraph does not limit any other remedies available to
 297 the beneficiaries by reason of default.

298 (c) An authority has all the powers provided in this
 299 section and s. 163.01(7)(g), Florida Statutes.

300 (d) Each authority shall work with local agencies that
 301 request assistance to determine the most cost-effective manner
 302 of financing regional water projects. If the entities determine
 303 that the issuance of utility cost containment bonds will result
 304 in lower financing costs for a project, the authority shall
 305 cooperate with such local agencies and, if requested by the
 306 local agencies, issue utility cost containment bonds as provided
 307 in this section.

308 (5) UTILITY PROJECT CHARGE.—

309 (a) The authority shall impose a sufficient utility project
 310 charge, based on estimates of water or wastewater service usage,
 311 to ensure timely payment of all financing costs with respect to
 312 utility cost containment bonds. The local agency or its publicly
 313 owned utility shall provide the authority with information
 314 concerning the publicly owned utility which may be required by
 315 the authority in establishing the utility project charge.

316 (b) The utility project charge is a nonbypassable charge to
 317 all present and future customers of the publicly owned utility
 318 in the class or classes of customers specified in the financing
 319 resolution upon its adoption. If the regulatory structure for

17-00042-16

2016324__

320 the water or wastewater industry changes in a manner that
 321 authorizes a customer to choose to take service from an
 322 alternative supplier and the customer chooses an alternative
 323 supplier, the customer remains liable for paying the utility
 324 project charge if the customer continues to receive any service
 325 from the publicly owned utility for the transmission,
 326 distribution, processing, delivery, or metering of the
 327 underlying water or wastewater service.

328 (c) The authority shall determine at least annually and at
 329 such additional intervals as provided in the financing
 330 resolution and documents related to the applicable utility cost
 331 containment bonds whether adjustments to the utility project
 332 charge are required. The authority shall use the adjustment to
 333 correct for any overcollection or undercollection of financing
 334 costs from the utility project charge or to make any other
 335 adjustment necessary to ensure the timely payment of the
 336 financing costs of the utility cost containment bonds, including
 337 adjustment of the utility project charge to pay any debt service
 338 coverage requirement for the utility cost containment bonds. The
 339 local agency or its publicly owned utility shall provide the
 340 authority with information concerning the publicly owned utility
 341 which may be required by the authority in adjusting the utility
 342 project charge.

343 1. If the authority determines that an adjustment to the
 344 utility project charge is required, the adjustment must be made
 345 using the methodology specified in the financing resolution.

346 2. The adjustment may not impose the utility project charge
 347 on a class of customers which was not subject to the utility
 348 project charge pursuant to the financing resolution imposing the

17-00042-16

2016324__

349 utility project charge.

350 (d) Revenues from a utility project charge are special
 351 revenues of the authority and do not constitute revenue of the
 352 local agency or its publicly owned utility for any purpose,
 353 including any dedication, commitment, or pledge of revenue,
 354 receipts, or other income that the local agency or its publicly
 355 owned utility has made or will make for the security of any of
 356 its obligations.

357 (e) The local agency or its publicly owned utility shall
 358 act as a servicing agent for collecting the utility project
 359 charge throughout the duration of the servicing agreement
 360 required by the financing resolution. The local agency or its
 361 publicly owned utility shall hold the money collected in trust
 362 for the exclusive benefit of the persons entitled to have the
 363 financing costs paid from the utility project charge, and the
 364 money does not lose its designation as revenues of the authority
 365 by virtue of possession by the local agency or its publicly
 366 owned utility.

367 (f) The customer must make timely and complete payment of
 368 all utility project charges as a condition of receiving water or
 369 wastewater service from the publicly owned utility. The local
 370 agency or its publicly owned utility may use its established
 371 collection policies and remedies provided under law to enforce
 372 collection of the utility project charge. A customer liable for
 373 a utility project charge may not withhold payment, in whole or
 374 in part, thereof.

375 (g) The pledge of a utility project charge to secure
 376 payment of utility cost containment bonds is irrevocable, and
 377 the state, or any other entity, may not reduce, impair, or

17-00042-16

2016324__

378 otherwise adjust the utility project charge, except that the
 379 authority shall implement the periodic adjustments to the
 380 utility project charge as provided under this subsection.

381 (6) UTILITY PROJECT PROPERTY.—

382 (a) A utility project charge constitutes utility project
 383 property on the effective date of the financing resolution
 384 authorizing such utility project charge. Utility project
 385 property constitutes property, including contracts for securing
 386 utility cost containment bonds, regardless of whether the
 387 revenues and proceeds arising with respect to the utility
 388 project property have accrued. Utility project property shall
 389 continuously exist as property for all purposes with all of the
 390 rights and privileges of this section through the end of the
 391 period provided in the financing resolution or until all
 392 financing costs with respect to the related utility cost
 393 containment bonds are paid in full, whichever occurs first.

394 (b) Upon the effective date of the financing resolution,
 395 the utility project property is subject to a first-priority
 396 statutory lien to secure the payment of the utility cost
 397 containment bonds.

398 1. The lien secures the payment of all financing costs then
 399 existing or subsequently arising to the holders of the utility
 400 cost containment bonds, the trustees or representatives of the
 401 holders of the utility cost containment bonds, and any other
 402 entity specified in the financing resolution or the documents
 403 relating to the utility cost containment bonds.

404 2. The lien attaches to the utility project property
 405 regardless of the current ownership of the utility project
 406 property, including any local agency or its publicly owned

17-00042-16

2016324__

407 utility, the authority, or any other person.

408 3. Upon the effective date of the financing resolution, the
 409 lien is valid and enforceable against the owner of the utility
 410 project property and all third parties, and additional public
 411 notice is not required.

412 4. The lien is a continuously perfected lien on all
 413 revenues and proceeds generated from the utility project
 414 property regardless of whether the revenues or proceeds have
 415 accrued.

416 (c) All revenues with respect to utility project property
 417 related to utility cost containment bonds, including payments of
 418 the utility project charge, shall be applied first to the
 419 payment of the financing costs of the utility cost containment
 420 bonds then due, including the funding of reserves for the
 421 utility cost containment bonds. Any excess revenues shall be
 422 applied as determined by the authority for the benefit of the
 423 utility for which the utility cost containment bonds were
 424 issued.

425 (7) UTILITY COST CONTAINMENT BONDS.—

426 (a) Utility cost containment bonds shall be issued within
 427 the parameters of the financing provided by the authority
 428 pursuant to this section. The proceeds of the utility cost
 429 containment bonds made available to the local agency or its
 430 publicly owned utility shall be used for the utility project
 431 identified in the application for financing of the utility
 432 project or used to refinance indebtedness of the local agency
 433 which financed or refinanced utility projects.

434 (b) Utility cost containment bonds shall be issued as set
 435 forth in this section and s. 163.01(7)(g)8., Florida Statutes,

17-00042-16

2016324__

436 and may be validated pursuant to s. 163.01(7)(g)9., Florida
 437 Statutes.

438 (c) The authority shall pledge the utility project property
 439 as security for the payment of the utility cost containment
 440 bonds. All rights of an authority with respect to utility
 441 project property pledged as security for the payment of utility
 442 cost containment bonds shall be for the benefit of, and
 443 enforceable by, the beneficiaries of the pledge to the extent
 444 provided in the financing documents relating to the utility cost
 445 containment bonds.

446 1. If utility project property is pledged as security for
 447 the payment of utility cost containment bonds, the local agency
 448 or its publicly owned utility shall enter into a contract with
 449 the authority which requires, at a minimum, that the publicly
 450 owned utility:

451 a. Continue to operate its publicly owned utility,
 452 including the utility project that is being financed or
 453 refinanced;

454 b. Collect the utility project charge from customers for
 455 the benefit and account of the authority and the beneficiaries
 456 of the pledge of the utility project charge; and

457 c. Separately account for and remit revenue from the
 458 utility project charge to, or for the account of, the authority.

459 2. The pledge of a utility project charge to secure payment
 460 of utility cost containment bonds is irrevocable, and the state
 461 or any other entity may not reduce, impair, or otherwise adjust
 462 the utility project charge, except that the authority shall
 463 implement periodic adjustments to the utility project charge as
 464 provided under subsection (5).

17-00042-16

2016324__

465 (d) Utility cost containment bonds shall be nonrecourse to
 466 the credit or any assets of the local agency or the publicly
 467 owned utility but are payable from, and secured by a pledge of
 468 the utility project property relating to the utility cost
 469 containment bonds and any additional security or credit
 470 enhancement specified in the documents relating to the utility
 471 cost containment bonds. If, pursuant to subsection (4), the
 472 authority is financing the project through a single-purpose
 473 limited liability company, the utility cost containment bonds
 474 shall be payable from, and secured by, a pledge of amounts paid
 475 by the company to the authority from the applicable utility
 476 project property. This paragraph is the exclusive method of
 477 perfecting a pledge of utility project property by the company
 478 securing the payment of financing costs under any agreement of
 479 the company in connection with the issuance of utility cost
 480 containment bonds.

481 (e) The issuance of utility cost containment bonds does not
 482 obligate the state or any political subdivision thereof to levy
 483 or to pledge any form of taxation to pay the utility cost
 484 containment bonds or to make any appropriation for their
 485 payment. Each utility cost containment bond must contain on its
 486 face a statement in substantially the following form:

487
 488 "Neither the full faith and credit nor the taxing power of the
 489 State of Florida or any political subdivision thereof is pledged
 490 to the payment of the principal of, or interest on, this bond."

491
 492 (f) Notwithstanding any other law or this section, a
 493 financing resolution or other resolution of the authority, or

Page 17 of 20

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17-00042-16

2016324__

494 documents relating to utility cost containment bonds, the
 495 authority may not rescind, alter, or amend any resolution or
 496 document that pledges utility cost charges for payment of
 497 utility cost containment bonds.

498 (g) Subject to the terms of any pledge document created
 499 under this section, the validity and relative priority of a
 500 pledge is not defeated or adversely affected by the commingling
 501 of revenues generated by the utility project property with other
 502 funds of the local agency or the publicly owned utility
 503 collecting a utility project charge on behalf of an authority.

504 (h) Financing costs in connection with utility cost
 505 containment bonds are a special obligation of the authority and
 506 do not constitute a liability of the state or any political
 507 subdivision thereof. Financing costs are not a pledge of the
 508 full faith and credit of the state or any political subdivision
 509 thereof, including the authority, but are payable solely from
 510 the funds identified in the documents relating to the utility
 511 cost containment bonds. This paragraph does not preclude
 512 guarantees or credit enhancements in connection with utility
 513 cost containment bonds.

514 (i) Except as otherwise provided in this section with
 515 respect to adjustments to a utility project charge, the recovery
 516 of the financing costs for the utility cost containment bonds
 517 from the utility project charge is irrevocable, and the
 518 authority does not have the power, by rescinding, altering, or
 519 amending the applicable financing resolution, to revalue or
 520 revise for ratemaking purposes the financing costs of utility
 521 cost containment bonds; to determine that the financing costs
 522 for the related utility cost containment bonds or the utility

Page 18 of 20

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17-00042-16 2016324__

523 project charge is unjust or unreasonable; or to in any way,
 524 either directly or indirectly, reduce or impair the value of
 525 utility project property that includes the utility project
 526 charge. The amount of revenues arising with respect to the
 527 financing costs for the related utility cost containment bonds
 528 or the utility project charge is not subject to reduction,
 529 impairment, postponement, or termination for any reason until
 530 all financing costs to be paid from the utility project charge
 531 are fully met and discharged.

532 (j) Except as provided in subsection (5) with respect to
 533 adjustments to a utility project charge, the state pledges and
 534 agrees with the owners of utility cost containment bonds that
 535 the state may not limit or alter the financing costs or the
 536 utility project property, including the utility project charge,
 537 relating to the utility cost containment bonds, or any rights
 538 related to the utility project property, until all financing
 539 costs with respect to the utility cost containment bonds are
 540 fully met and discharged. This paragraph does not preclude
 541 limitation or alteration if adequate provision is made by law to
 542 protect the owners. The authority may include the state's pledge
 543 in the governing documents for utility cost containment bonds.

544 (8) LIMITATION ON DEBT RELIEF.—Notwithstanding any other
 545 law, an authority that issued utility cost containment bonds may
 546 not, and a governmental officer or organization may not
 547 authorize the authority to, become a debtor under the United
 548 States Bankruptcy Code or become the subject of any similar case
 549 or proceeding under any other state or federal law if any
 550 payment obligation from utility project property remains with
 551 respect to the utility cost containment bonds.

Page 19 of 20

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17-00042-16 2016324__

552 (9) CONSTRUCTION.—This section and all grants of power and
 553 authority in this section shall be liberally construed to
 554 effectuate their purposes. All incidental powers necessary to
 555 carry this section into effect are expressly granted to, and
 556 conferred upon, public entities.

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

Page 20 of 20

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG
17th District

Legg.John.web@FLSenate.gov

January 14, 2016

The Honorable Dorothy Hukill
Committee on Finance and Tax, Chair
207 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 324 - Utility Projects

Dear Chair Hukill:

SB 324: Utility Projects has been referred to your committee. I respectfully request that it be placed on the Committee on Finance and Tax Agenda, at your convenience. Your leadership and consideration are appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "John Legg".

John Legg
State Senator, District 17

cc: Jose Diez-Arguelles, Staff Director
Lynn Wells, Administrative Assistant

REPLY TO:

- 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG
17th District

Legg.John.web@FLSenate.gov

February 8, 2016

The Honorable Dorothy Hukill
Committee on Finance and Tax, Chair
207 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 324 - Utility Projects

Dear Chair Hukill:

SB 324: Utility Projects is on the Committee on Finance and Tax agenda, February 8, 2016. My mother has suffered a critical health incident, and my presence is needed at home.

Please recognize my Legislative Assistant, Jim Browne, to present SB 324 on my behalf. Should you have any questions, please feel free to contact me. Your consideration is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "John Legg".

John Legg
State Senator, District 17

cc: Jose Diez-Arguelles, Staff Director
Lynn Wells, Administrative Assistant

A handwritten signature in black ink, appearing to read "D. Hukill".

REPLY TO:

- 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb 8 2016

Meeting Date

324

Bill Number (if applicable)

737306

Amendment Barcode (if applicable)

Topic Cost Containment Bond Act

Name DAVID CHILDS

Job Title Counsel

Address 119 S. Monroe St. Suite 300

Phone 850 222-7500

Street

Tallahassee

City

FL

State

32303

Zip

Email DAVID@HESLAW.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FWEA Utility Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb 8 2016
Meeting Date

SB 324
Bill Number (if applicable)

737306
Amendment Barcode (if applicable)

Topic Utility Projects

Name Edgar G. Fernandez

Job Title _____

Address 201 W. Park Avenue Ste 100 Phone _____
Street

Tallahassee FL 32301
City State Zip

Email Edgar@AnfieldFlorida.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing American Water Works Assn Florida Section

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SB 802

INTRODUCER: Transportation Committee and Senator Benacquisto

SUBJECT: Use Tax for Asphalt

DATE: February 5, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Fav/CS
2.	Fournier	Diez-Arguelles	FT	Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 802 phases out the indexed tax on manufactured asphalt used for any federal, state, or local government public works project. Currently, the calculated indexed tax is reduced by 40 percent. The bill reduces the indexed tax by 60 percent beginning July 1, 2016; by 80 percent beginning July 1, 2017; and provides a total tax exemption beginning July 1, 2018.

The bill is estimated to reduce state and local revenue by \$0.5 million in FY 2016-17, \$1.2 million in 2017-18, \$1.9 million in FY 2018-2019.

See Section V., "Fiscal Impact Statement," for further fiscal impact information.

The bill takes effect July 1, 2016.

II. Present Situation:

Section 212.06(b), F.S., imposes a six percent use tax on any person who manufactures, produces, compounds, processes, or fabricates...tangible personal property for his or her own use. The tax is based upon the cost of the product, without any deduction for the cost of material, labor or transportation. Section 212.06(c)1, F.S., provides that, notwithstanding the provisions of paragraph (b), the use tax on asphalt manufactured for one's own use is calculated only upon the cost of materials which become a component part or which are an ingredient of the finished asphalt and upon the cost of transportation of such components and ingredients. In addition, an

indexed tax is also imposed upon the manufactured asphalt, adjusted each July 1 by the average of the “materials and components for construction” as published by the United States Department of Labor Bureau of Statistics.¹ The current indexed tax is 74 cents per ton for the period July 1, 2015, through June 30, 2016.² Under current law, the indexed tax on manufactured asphalt used for any federal, state, or local government public works project is reduced by 40 percent as required by s. 212.06(1)(c)2.b., F.S.³ After the reduction, the current indexed tax rate for such asphalt used for the identified public works projects is 45 cents per ton for the period July 1, 2015, through June 30, 2016. The tax is due in the month the asphalt is manufactured for use by the contractor.⁴

III. Effect of Proposed Changes:

The bill phases out the indexed tax on manufactured asphalt used in federal, state, or local government public works project over a three-year period as follows:

- The tax is reduced by 60 percent from July 1, 2016, through June 30, 2017, instead of the current 40 percent.
- The tax is reduced by 80 percent from July 1, 2017, through June 30, 2018.
- Beginning July 1, 2018, manufactured asphalt used in federal, state, or local government public works is exempt from the indexed tax.

The six percent use tax continues to apply to the cost of materials that become a component part or ingredient of manufactured asphalt and upon the cost of the transportation of such components or ingredients.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or to take an action requiring expenditure. The bill will reduce the authority of municipalities and counties to raise revenues. However, the impact on counties and municipalities in the aggregate is expected to be insignificant, and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

¹ Section 212.06(c), F.S., requires the indexed tax to be adjusted “to an amount, rounded to the nearest cent, equal to the product of 38 cents multiplied by a fraction, the numerator of which is the annual average of the “materials and components for construction” series of the producer price index, as calculated and published by the United States Department of Labor, Bureau of Statistics, for the previous calendar year, and the denominator of which is the annual average of said series for calendar year 1988.” The producer price index (PPI) measures the average change over time in selling prices received by domestic producers of goods and services. See the U.S. Department of Labor website for additional information on the PPI: available at <http://www.bls.gov/ppi/ppiover.htm>. (last visited Jan. 5, 2016).

² Department of Revenue, *Senate Bill 802 Fiscal Analysis* (Dec. 10, 2015) (on file in the Senate Committee on Transportation). See also the FDOR’s Tax Information Publication #15A01-03 for information on calculating the use tax on asphalt manufactured by a contractor for his or her own use: available at <http://dor.myflorida.com/dor/tips/tip15a01-03.html>. (last visited Jan. 5, 2016).

³ The Legislature first provided an exemption from the indexed tax of 20 percent of the manufactured asphalt used for any state or local government public works project in 1999. The exemption was increased to 40 percent and expanded to expressly include federal public works projects in 2000. See Ch. 99-334, Laws of Fla. and Ch. 2000-310, Laws of Fla., respectively. See also Ch. 2000-355, Laws of Fla.

⁴ Department of Revenue, *Senate Bill 802 Fiscal Analysis*. (Dec. 10, 2015) (on file with the Senate Committee on Transportation).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) adopted the following proposed estimate of the impact of the bill language on October 29, 2015:

	GR		Trust		Revenue Sharing	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	(0.5)	(1.5)	(Insignif.)	(Insignif.)	(Insignif.)	(Insignif.)
2017-18	(1.0)	(15)	(Insignif.)	(Insignif.)	(Insignif.)	(Insignif.)
2018-19	(1.5)	(1.5)	(Insignif.)	(Insignif.)	(0.1)	(0.1)
2019-20	(1.6)	(1.6)	(Insignif.)	(Insignif.)	(0.1)	(0.1)
2020-21	(1.6)	(1.6)	(Insignif.)	(Insignif.)	(0.1)	(0.1)

	Local Half Cent		Local Option		Total Local	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	(Insignif.)	(0.1)	(Insignif.)	(0.1)	0.0	(0.2)
2017-18	(0.1)	(0.1)	(0.1)	(0.1)	(0.2)	(0.2)
2018-19	(0.1)	(0.1)	(0.2)	(0.2)	(0.4)	(0.4)
2019-20	(0.1)	(0.1)	(0.2)	(0.2)	(0.4)	(0.4)
2020-21	(0.2)	(0.2)	(0.2)	(0.2)	(0.5)	(0.5)

	Total	
	Cash	Recurring
2016-17	(0.5)	(1.7)
2017-18	(1.2)	(1.7)
2018-19	(1.9)	(1.9)
2019-20	(2.0)	(2.0)
2020-21	(2.1)	(2.1)

B. Private Sector Impact:

Providers of manufactured asphalt used on government public work projects will experience lower costs of production resulting from the reduced tax rate and the eventual entire exemption from the tax.

C. Government Sector Impact:

If manufacturers reflect the savings resulting from the tax reduction and eventual exemption in public works contract bids, local, state, and federal governments will experience positive fiscal impacts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.06 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on January 14, 2016:

The CS incorporates a technical amendment making the specified manufactured asphalt exempt from the indexed tax beginning July 1, 2018, rather than reducing the tax by 100 percent on that date.

- B. **Amendments:**

None.

By the Committee on Transportation; and Senator Benacquisto

596-02118-16

2016802c1

1 A bill to be entitled
 2 An act relating to the use tax for asphalt; amending
 3 s. 212.06, F.S.; reducing by a specified percentage
 4 over time an indexed tax on manufactured asphalt used
 5 for a government public works project; exempting such
 6 manufactured asphalt from the indexed tax beginning on
 7 a specified date; providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Paragraph (c) of subsection (1) of section
 12 212.06, Florida Statutes, is amended to read:
 13 212.06 Sales, storage, use tax; collectible from dealers;
 14 "dealer" defined; dealers to collect from purchasers;
 15 legislative intent as to scope of tax.—
 16 (1)
 17 (c)1. Notwithstanding the provisions of paragraph (b), the
 18 use tax on asphalt manufactured for one's own use shall be
 19 calculated with respect to paragraph (b) only upon the cost of
 20 materials which become a component part or which are an
 21 ingredient of the finished asphalt and upon the cost of the
 22 transportation of such components and ingredients. In addition,
 23 an indexed tax of 38 cents per ton of such manufactured asphalt
 24 shall be due at the same time and in the same manner as taxes
 25 due pursuant to paragraph (b). Beginning July 1, 1989, the
 26 indexed tax shall be adjusted each July 1 to an amount, rounded
 27 to the nearest cent, equal to the product of 38 cents multiplied
 28 by a fraction, the numerator of which is the annual average of
 29 the "materials and components for construction" series of the
 30 producer price index, as calculated and published by the United
 31 States Department of Labor, Bureau of Statistics, for the
 32 previous calendar year, and the denominator of which is the

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

596-02118-16

2016802c1

33 annual average of said series for calendar year 1988.
 34 2.a. Beginning July 1, 1999, the indexed tax imposed by
 35 this paragraph on manufactured asphalt which is used for any
 36 federal, state, or local government public works project shall
 37 be reduced by 20 percent.
 38 b. Beginning July 1, 2000, the indexed tax imposed by this
 39 paragraph on manufactured asphalt which is used for any federal,
 40 state, or local government public works project shall be reduced
 41 by 40 percent.
 42 c. Beginning July 1, 2016, the indexed tax imposed by this
 43 paragraph on manufactured asphalt which is used for any federal,
 44 state, or local government public works project shall be reduced
 45 by 60 percent.
 46 d. Beginning July 1, 2017, the indexed tax imposed by this
 47 paragraph on manufactured asphalt which is used for any federal,
 48 state, or local government public works project shall be reduced
 49 by 80 percent.
 50 e. Beginning July 1, 2018, manufactured asphalt used for
 51 any federal, state, or local government public works project
 52 shall be exempt from the indexed tax imposed by this paragraph.
 53 Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Banking and Insurance, *Chair*
Appropriations, *Vice Chair*
Appropriations Subcommittee on Health
and Human Services
Education Pre-K-12
Higher Education
Judiciary
Rules

**SENATOR LIZBETH
BENACQUISTO**
30th District

JOINT COMMITTEE:
Joint Legislative Auditing Committee
Joint Select Committee on Collective
Bargaining

January 15, 2016

The Honorable Dorothy Hukill
Senate Finance and Tax, Chair
305 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 802- Use Tax for Asphalt

Dear Mr. Chair:

Please allow this letter to serve as my respectful request to agenda SB 802, Relating to Use Tax for Asphalt, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Lizbeth Benacquisto".

Lizbeth Benacquisto
Senate District 30

Cc: Jose Diaz-Arguelles

REPLY TO:

- 2310 First Street, Suite 305, Fort Myers, Florida 33901 (239) 338-2570
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Banking and Insurance, *Chair*
Appropriations, *Vice Chair*
Appropriations Subcommittee on Health
and Human Services
Education Pre-K-12
Higher Education
Judiciary
Rules

SENATOR LIZBETH BENACQUISTO

30th District

JOINT COMMITTEE:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

February 8, 2016

The Honorable Dorothy Hukill
Senate Finance and Tax, Chair
314 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RE: Presentation of SB 802

Dear Madam Chair:

Please allow this letter to serve as my respectful request to allow my staff member, Matthew Hunter, to present SB 802 in committee today. I have a committee conflict at the same time.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Lizbeth Benacquisto".

Lizbeth Benacquisto
Senate District 30

Cc: Jose Diez-Arguelles

REPLY TO:

- 2310 First Street, Suite 305, Fort Myers, Florida 33901 (239) 338-2570
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16

Meeting Date

SB 802

Bill Number (if applicable)

Topic Use Tax for Asphalt

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Phone 850-224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: [] For [] Against [] Information

Waive Speaking: [x] In Support [] Against (The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02/08/16

Meeting Date

CS/802

Bill Number (if applicable)

Topic Manufacturers Use Tax

Amendment Barcode (if applicable)

Name Jim Cordero

Job Title Director of Governmental Affairs

Address 1007 E. DeSoto Park Drive Ste. 201

Phone 850-222-7300

Street

Tallahassee FL 32308

City

State

Zip

Email jcordero@acaf.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Asphalt Contractors Association of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SB 844

INTRODUCER: Finance and Tax Committee and Senator Flores

SUBJECT: Aviation Fuel Taxes

DATE: February 9, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Favorable
2.	Fournier	Diez-Arguelles	FT	Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 844 reduces the excise tax rate imposed on aviation fuel, kerosene, and aviation gasoline beginning July 1, 2019, and at the same time repeals the existing credit or refund of the tax paid for aviation fuel used by an air carrier that has increased the air carrier's Florida work force by certain amounts. The bill also limits eligibility for the existing credit or refund to those carriers who qualify before July 1, 2016.

The bill is estimated to have an indeterminate recurring impact on state revenue beginning July 1, 2018. There is no cash impact in fiscal years 2016-2017 through 2018-2019. (See Section V., "Fiscal Impact Statement," for further information.)

The bill takes effect July 1, 2016.

II. Present Situation:

Section 206.9825(1)(a), F.S., generally imposes an excise tax of 6.9 cents per gallon on every gallon of aviation fuel, kerosene, and aviation gasoline sold or brought into this state.¹ State taxes are imposed on net gallons when aviation fuel is:

¹ Certain exemptions are authorized for kerosene used for home heating or cooking purposes. See subsection (2)(b),(c), and (d), and subsections (4) and (5), of s. 206.9825, F.S. Aviation fuel purchased by the United States is also exempt from the tax under s. 206.9875, F.S.

- Removed from the terminal at the rack.
- Imported into Florida by means other than the bulk transfer system or by means of the bulk transfer system and the importer of record is not licensed as a terminal supplier or importer.
- Sold to an unlicensed person unless there was a prior taxable removal, entry, or sale of the fuel.²

Section 206.9825(1)(b), F.S., authorizes any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that increases its Florida workforce by more than 1,000 percent, and by 250 or more full-time equivalent employee positions after January 1, 1996, to receive a credit or refund of the 6.9 cents per gallon tax. This credit or refund results in certain air carriers being able to buy aviation fuel tax free. If the number of full-time equivalent employees created or added to the air carrier's Florida workforce falls below 250 before July 1, 2001, the exemption taken by credit or refund does not apply during the period in which the carrier has fewer than the 250 additional employees.

This credit or refund was first authorized in 1996³ and expired by its terms on July 1, 2001. Following the events of September 11, 2001, the Legislature re-enacted the exemption, but did not include a sunset provision.⁴

Aviation Fuel Taxes in Other States

All but three states impose a tax on aviation fuel. The Tax Foundation, using data from Airlines for America as of June 25, 2014, reports that the *effective* tax rates⁵ for Florida and Georgia were \$0.0897 cents and \$0.15 cents per gallon, respectively. The Tax Foundation summarizes the all-states data as follows:

There are 19 states that don't include any jet fuel in their sales tax base, 16 that tax private jet fuel purchases but exempt commercial airlines, and 15 states that apply the sales tax to commercial jet fuel (though sometimes at a reduced rate). Furthermore, 28 states apply fuel excise taxes, and many states also apply various other taxes such as environmental taxes . . .

The highest total tax rates for commercial jet fuel are in Illinois (\$0.3275 per gallon), California (\$0.27), and Connecticut (\$0.2643). The lowest rates are in Delaware, Ohio, and Texas, none of whom tax jet fuel . . .⁶

² See the FDOR website, "Tax on Fuel" heading, "Aviation Fuel" subheading, available at <http://dor.myflorida.com/dor/taxes/fuel/> (last visited Jan. 6, 2016).

³ Chapter 1996-323, s. 21, Laws of Fla.

⁴ Chapter 2002-218, s. 10, Laws of Fla.

⁵ Note that the Airlines for America (A4A) rates assume a wholesale price of \$3 per gallon and do not include the federal excise tax of 4.4 cents per gallon. The rates are based on an A4A-developed methodology for determining the effective tax rate on a gallon of commercial airliner fuel and may include other taxes. See the Tax Foundation's website for a map and chart of the rates of all states, as well as additional information available at <http://taxfoundation.org/blog/combined-effective-commercial-jet-fuel-tax-rates-and-fees-state>. (last visited Jan. 7, 2016).

⁶ *Id.*

North Carolina recently granted a full exemption for jet fuel and aviation gasoline from its sales and use tax when sold to an interstate air business for use in a commercial aircraft.^{7, 8}

Florida Sales of Aviation Fuel to Commercial Air Carriers

The Florida Department of Revenue (FDOR) provided the following information⁹ relating to aviation fuel sales and tax due for the 2014-2015 fiscal years. The shaded lines show the carriers that currently do not pay tax; the amount due column shows what they would have paid if their purchases were not exempt.

Sales of Aviation Fuel to Commercial Air Carriers (2014/2015)			
	Sum of Gallons	% of Total Sales	Tax Due (Includes Tax Exempt Disbursements)
AMERICAN AIRLINES	298,649,092	33.42%	\$20,606,787.35
DELTA AIR LINES INC	129,635,299	14.51%	\$8,944,835.63
JETBLUE AIRWAYS	113,293,136	12.68%	\$7,817,226.38
SOUTHWEST AIRLINES	108,026,647	12.09%	\$7,453,838.64
CONTINENTAL AIRLINES INC	72,505,569	8.11%	\$5,002,884.26
ALLEGIANT AIR LLC*	49,966,012	5.59%	\$3,447,654.83
SPIRIT AIRLINES INC	41,414,492	4.63%	\$2,857,599.95
US AIRWAYS INC	34,688,081	3.88%	\$2,393,477.59
FEDERAL EXPRESS	18,187,079	2.04%	\$1,254,908.45
FRONTIER AIRLINES	5,568,293	0.62%	\$384,212.22
SILVER AIRWAYS CORP	3,984,321	0.45%	\$274,918.15
DHL EXPRESS (USA)	3,578,371	0.40%	\$246,907.60
VIRGIN AMERICA INC	3,425,117	0.38%	\$236,333.07
NATIONAL JETS INC	3,096,216	0.35%	\$213,638.90
UNITED PARCEL	2,725,184	0.30%	\$188,037.70
ENVOY AIR INC	1,675,693	0.19%	\$115,622.82
AIRTRAN AIRWAYS INC	1,398,434	0.16%	\$96,491.95
MIAMI AIR	1,038,493	0.12%	\$71,656.02
UNITED AIRLINES INC	343,751	0.04%	\$23,718.82
ATLAS AIR INC	298,737	0.03%	\$20,612.85
ABX AIR INC	69,280	0.01%	\$4,780.32
TEM ENTERPRISES INC	57,719	0.01%	\$3,982.61
AMERIJET	53,518	0.01%	\$3,692.74

⁷ See the Charlotte Observer article available at <http://www.charlotteobserver.com/news/business/article35681102.html>. (last visited Jan. 7, 2016).

⁸ The exemption expires in 2020. See the North Carolina Department of Revenue overview of changes enacted by the 2015 Session of the North Carolina General Assembly. (on file with the Senate Committee on Transportation).

⁹ E-mail from the FDOR to House committee staff (Nov. 24, 2015) (on file with the Senate Committee on Transportation) The FDOR advises the table does not include sales from fixed based operators or jobbers to commercial air carriers, fuel sold for export, or bulk sales in the terminal. All returns have not been processed through June 2015. Sales reported on unworked returns is not listed on the table. Finally, the tax due does not include reductions due to collection allowances.

PRESIDENTIAL	14,277	0.00%	\$985.11
REVA INC	10,337	0.00%	\$713.25
PROFESSIONAL	5,018	0.00%	\$346.24
Grand Total	893,708,166	100.00%	\$61,665,863.45

*Allegiant Air, LLC was not exempt in the 2014-2015 fiscal years, but is currently exempt.

After deducting the General Revenue service charge, administrative costs, and the air carrier credits or refunds based on wages paid to employees located in this state,¹⁰ the tax proceeds are distributed monthly to the State Transportation Trust Fund.¹¹ Deposits into the State Transportation Trust Fund from this source for the last five fiscal years were:

- \$37.6 million in 2011.
- \$13.4 million in 2012.
- \$40.7 million in 2013.
- \$35.5 million in 2014.
- \$30.4 million in 2015.¹²

III. Effect of Proposed Changes:

Beginning on July 1, 2019, the bill:

- Reduces the excise tax rate imposed on aviation fuel, kerosene, and aviation gasoline, from 6.9 cents to 4.27 cents per gallon.
- Eliminates the existing credit or refund of the current 6.9 cents per gallon excise tax paid for aviation fuel delivered by a licensed wholesaler or terminal supplier to an air carrier that offers transcontinental jet service and increases the air carrier’s Florida workforce by more than 1,000 percent and by 250 or more FTE positions since January 1, 1996.

The bill also limits eligibility for the existing tax exemption to those carriers that increased their workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions *between* January 1, 1996, and July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or to take an action requiring expenditure, does not reduce the authority of municipalities and counties to raise revenues, and does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, the bill is exempt from the provisions of Article VII, Section (18(b), Florida Constitution, and the provisions of Article VII, Section 18(c), of the Florida Constitution do not apply to the bill.

¹⁰ Section 206.9855, F.S., authorizes a refund to for-hire air carriers of not more than 0.6 percent of the wages paid by the carrier to employees located or based within Florida and who are covered by the provisions of ch. 443, F.S., relating to reemployment assistance.

¹¹ See s. 206.9845, F.S.

¹² E-mail from FDOT staff to Senate Transportation Committee staff (Jan. 6, 2016) (on file with the Senate Committee on Transportation).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The Revenue Estimating Conference estimates that 4.27 percent is the revenue-neutral tax rate for eliminating the exemption for certain air carriers and reducing the rate for all carriers based on current market conditions. Adopting this rate has an indeterminate impact on state revenues after July 1, 2019.

B. Private Sector Impact:

Air carriers that are or become eligible (before July 1, 2016) to receive the existing aviation fuel tax credit or refund will continue to benefit from the tax credit or refund until July 1, 2019.

Air carriers paying the current aviation fuel tax rate of 6.9 cents per gallon will realize a benefit as a result of the reduction of the tax rate to 4.27 cents per gallon. Those carriers currently receiving the credit or refund will experience a tax increase, partially offset by the reduced tax rate. Carriers currently receiving the credit or refund under s. 206.9825, F.S., will also become eligible for credits or refunds under s. 206.9855, F.S.

C. Government Sector Impact:

The bill will have an indeterminate impact on the State Transportation Trust Fund revenue.

The FDOR noted only insignificant expenditures.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 206.9825 of the Florida Statutes.

¹³ *Id.*

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on February 8, 2016:

The CS reduces the aviation fuel tax rate to 4.27 percent, effective July 1, 2019.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



388912

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Flores) recommended the following:

Senate Amendment

Delete lines 37 - 130
and insert:
tax of 4.27 ~~6.9~~ cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. Fuel taxed pursuant to this part is ~~shall not be~~ subject to the taxes



388912

11 imposed by ss. 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c),
12 and (d).

13 ~~(b) Any licensed wholesaler or terminal supplier that~~
14 ~~delivers aviation fuel to an air carrier offering~~
15 ~~transeontinental jet service and that, after January 1, 1996,~~
16 ~~but before July 1, 2016, increases the air carrier's Florida~~
17 ~~workforce by more than 1000 percent and by 250 or more full-time~~
18 ~~equivalent employee positions, may receive a credit or refund as~~
19 ~~the ultimate vendor of the aviation fuel for the 6.9 cents~~
20 ~~excise tax previously paid, provided that the air carrier has no~~
21 ~~facility for fueling highway vehicles from the tank in which the~~
22 ~~aviation fuel is stored. In calculating the new or additional~~
23 ~~Florida full-time equivalent employee positions, any full-time~~
24 ~~equivalent employee positions of parent or subsidiary~~
25 ~~corporations which existed before January 1, 1996, shall not be~~
26 ~~counted toward reaching the Florida employment increase~~
27 ~~thresholds. The refund allowed under this paragraph is in~~
28 ~~furtherance of the goals and policies of the State Comprehensive~~
29 ~~Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1.,~~
30 ~~4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.~~

31 ~~(c) If, before July 1, 2001, the number of full-time~~
32 ~~equivalent employee positions created or added to the air~~
33 ~~carrier's Florida workforce falls below 250, the exemption~~
34 ~~granted pursuant to this section shall not apply during the~~
35 ~~period in which the air carrier has fewer than the 250~~
36 ~~additional employees.~~

37 ~~(d) The exemption taken by credit or refund pursuant to~~
38 ~~paragraph (b) shall apply only under the terms and conditions~~
39 ~~set forth therein. If any part of that paragraph is judicially~~



388912

40 ~~declared to be unconstitutional or invalid, the validity of any~~
41 ~~provisions taxing aviation fuel shall not be affected and all~~
42 ~~fuel exempted pursuant to paragraph (b) shall be subject to tax~~
43 ~~as if the exemption was never enacted. Every person benefiting~~
44 ~~from such exemption shall be liable for and make payment of all~~
45 ~~taxes for which a credit or refund was granted.~~

46 (b)~~(e)~~1. Sales of aviation fuel to, and exclusively used
47 for flight training through a school of aeronautics or college
48 of aviation by, a college based in this state which is a tax-
49 exempt organization under s. 501(c)(3) of the Internal Revenue
50 Code or a university based in this state are exempt from the tax
51 imposed by this part if the college or university:

52 a. Is accredited by or has applied for accreditation by the
53 Aviation Accreditation Board International; and

54 b. Offers a graduate program in aeronautical or aerospace
55 engineering or offers flight training through a school of
56 aeronautics or college of aviation.

57 2. A licensed wholesaler or terminal supplier that sells
58 aviation fuel to a college or university qualified under this
59 paragraph and that does not collect the aviation fuel tax from
60 the college or university on such sale may receive an ultimate
61 vendor credit for the 4.27-cent ~~6.9-cent~~ excise tax previously
62 paid on the aviation fuel delivered to such college or
63 university.

64 3. A college or university qualified under this paragraph
65 which purchases aviation fuel from a retail supplier, including
66 a fixed-base operator, and pays the 4.27-cent ~~6.9-cent~~ excise
67 tax on the purchase may apply for and receive a refund of the
68 aviation fuel tax paid.



388912

69 (2) (a) An excise tax of 4.27 ~~6.9~~ cents per gallon is
70 imposed on each gallon of kerosene in the same manner as
71 prescribed for diesel fuel under ss. 206.87(2) and 206.872.

72 (b) The exemptions provided by s. 206.874 shall apply to
73 kerosene if the dyeing and marking requirements of s. 206.8741
74 are met.

75 (c) Kerosene prepackaged in containers of 5 gallons or less
76 and labeled "Not for Use in a Motor Vehicle" is exempt from the
77 taxes imposed by this part when sold for home heating and
78 cooking. Packagers may qualify for a refund of taxes previously
79 paid, as prescribed by the department.

80 (d) Sales of kerosene in quantities of 5 gallons or less by
81 a person not licensed under this chapter who has no facilities
82 for placing kerosene in the fuel supply system of a motor
83 vehicle may qualify for a refund of taxes paid. Refunds of taxes
84 paid shall be limited to sales for use in home heating or
85 cooking and shall be documented as prescribed by the department.

86 (3) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed
87 on each gallon of aviation gasoline in the manner prescribed by
88 paragraph (2) (a). However, the exemptions allowed by paragraph
89 (2) (b) do not apply to aviation gasoline.

90 (4) Any licensed wholesaler or terminal supplier that
91 delivers undyed kerosene to a residence for home heating or
92 cooking may receive a credit or refund as the ultimate vendor of
93 the kerosene for the 4.27-cent ~~6.9-cent~~ excise tax previously
94 paid.

95 (5) Any licensed wholesaler or terminal supplier that
96 delivers undyed kerosene to a retail dealer not licensed as a
97 wholesaler or terminal supplier for sale as a home heating or



388912

98 | cooking fuel may receive a credit or refund as the ultimate
99 | vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax

By Senator Flores

37-00118F-16

2016844__

1 A bill to be entitled
 2 An act relating to aviation fuel taxes; amending s.
 3 206.9825, F.S.; revising eligibility criteria for
 4 wholesalers and terminal suppliers to receive refunds
 5 or credits of previously paid excise taxes; providing
 6 for future repeal; revising the rate of the excise tax
 7 on certain aviation fuels; providing effective dates.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Paragraph (b) of subsection (1) of section
 12 206.9825, Florida Statutes, is amended to read:
 13 206.9825 Aviation fuel tax.—
 14 (1)
 15 (b) Any licensed wholesaler or terminal supplier that
 16 delivers aviation fuel to an air carrier offering
 17 transcontinental jet service and that, after January 1, 1996,
 18 but before July 1, 2016, increases the air carrier's Florida
 19 workforce by more than 1000 percent and by 250 or more full-time
 20 equivalent employee positions, may receive a credit or refund as
 21 the ultimate vendor of the aviation fuel for the 6.9 cents
 22 excise tax previously paid, provided that the air carrier has no
 23 facility for fueling highway vehicles from the tank in which the
 24 aviation fuel is stored. In calculating the new or additional
 25 Florida full-time equivalent employee positions, any full-time
 26 equivalent employee positions of parent or subsidiary
 27 corporations which existed before January 1, 1996, shall not be
 28 counted toward reaching the Florida employment increase
 29 thresholds. The refund allowed under this paragraph is in

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

37-00118F-16

2016844__

30 furtherance of the goals and policies of the State Comprehensive
 31 Plan set forth in s. 187.201(16) (a), (b)1., 2., (17) (a), (b)1.,
 32 4., (19) (a), (b)5., (21) (a), (b)1., 2., 4., 7., 9., and 12.
 33 Section 2. Effective July 1, 2019, section 206.9825,
 34 Florida Statutes, as amended by this act, is amended to read:
 35 206.9825 Aviation fuel tax.—
 36 (1) (a) Except as otherwise provided in this part, an excise
 37 tax of 3.3 ~~6.9~~ cents per gallon of aviation fuel is imposed upon
 38 every gallon of aviation fuel sold in this state, or brought
 39 into this state for use, upon which such tax has not been paid
 40 or the payment thereof has not been lawfully assumed by some
 41 person handling the same in this state. Fuel taxed pursuant to
 42 this part is ~~shall not be~~ subject to the taxes imposed by ss.
 43 206.41(1) (d), (e), and (f) and 206.87(1) (b), (c), and (d).
 44 ~~(b) Any licensed wholesaler or terminal supplier that~~
 45 ~~delivers aviation fuel to an air carrier offering~~
 46 ~~transcontinental jet service and that, after January 1, 1996,~~
 47 ~~but before July 1, 2016,~~ increases the air carrier's Florida
 48 workforce by more than 1000 percent and by 250 or more full-time
 49 equivalent employee positions, may receive a credit or refund as
 50 the ultimate vendor of the aviation fuel for the 6.9 cents
 51 excise tax previously paid, provided that the air carrier has no
 52 facility for fueling highway vehicles from the tank in which the
 53 aviation fuel is stored. In calculating the new or additional
 54 Florida full-time equivalent employee positions, any full-time
 55 equivalent employee positions of parent or subsidiary
 56 corporations which existed before January 1, 1996, shall not be
 57 counted toward reaching the Florida employment increase
 58 thresholds. The refund allowed under this paragraph is in

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

37-00118F-16

2016844

59 ~~furtherance of the goals and policies of the State Comprehensive~~
 60 ~~Plan set forth in s. 187.201(16) (a), (b)1., 2., (17) (a), (b)1.,~~
 61 ~~4., (19) (a), (b)5., (21) (a), (b)1., 2., 4., 7., 9., and 12.~~

62 ~~(c) If, before July 1, 2001, the number of full-time~~
 63 ~~equivalent employee positions created or added to the air~~
 64 ~~carrier's Florida workforce falls below 250, the exemption~~
 65 ~~granted pursuant to this section shall not apply during the~~
 66 ~~period in which the air carrier has fewer than the 250~~
 67 ~~additional employees.~~

68 ~~(d) The exemption taken by credit or refund pursuant to~~
 69 ~~paragraph (b) shall apply only under the terms and conditions~~
 70 ~~set forth therein. If any part of that paragraph is judicially~~
 71 ~~declared to be unconstitutional or invalid, the validity of any~~
 72 ~~provisions taxing aviation fuel shall not be affected and all~~
 73 ~~fuel exempted pursuant to paragraph (b) shall be subject to tax~~
 74 ~~as if the exemption was never enacted. Every person benefiting~~
 75 ~~from such exemption shall be liable for and make payment of all~~
 76 ~~taxes for which a credit or refund was granted.~~

77 (b)(e)1. Sales of aviation fuel to, and exclusively used
 78 for flight training through a school of aeronautics or college
 79 of aviation by, a college based in this state which is a tax-
 80 exempt organization under s. 501(c)(3) of the Internal Revenue
 81 Code or a university based in this state are exempt from the tax
 82 imposed by this part if the college or university:

83 a. Is accredited by or has applied for accreditation by the
 84 Aviation Accreditation Board International; and

85 b. Offers a graduate program in aeronautical or aerospace
 86 engineering or offers flight training through a school of
 87 aeronautics or college of aviation.

37-00118F-16

2016844

88 2. A licensed wholesaler or terminal supplier that sells
 89 aviation fuel to a college or university qualified under this
 90 paragraph and that does not collect the aviation fuel tax from
 91 the college or university on such sale may receive an ultimate
 92 vendor credit for the 3.3-cent ~~6.9-cent~~ excise tax previously
 93 paid on the aviation fuel delivered to such college or
 94 university.

95 3. A college or university qualified under this paragraph
 96 which purchases aviation fuel from a retail supplier, including
 97 a fixed-base operator, and pays the 3.3-cent ~~6.9-cent~~ excise tax
 98 on the purchase may apply for and receive a refund of the
 99 aviation fuel tax paid.

100 (2) (a) An excise tax of 3.3 ~~6.9~~ cents per gallon is imposed
 101 on each gallon of kerosene in the same manner as prescribed for
 102 diesel fuel under ss. 206.87(2) and 206.872.

103 (b) The exemptions provided by s. 206.874 shall apply to
 104 kerosene if the dyeing and marking requirements of s. 206.8741
 105 are met.

106 (c) Kerosene prepackaged in containers of 5 gallons or less
 107 and labeled "Not for Use in a Motor Vehicle" is exempt from the
 108 taxes imposed by this part when sold for home heating and
 109 cooking. Packagers may qualify for a refund of taxes previously
 110 paid, as prescribed by the department.

111 (d) Sales of kerosene in quantities of 5 gallons or less by
 112 a person not licensed under this chapter who has no facilities
 113 for placing kerosene in the fuel supply system of a motor
 114 vehicle may qualify for a refund of taxes paid. Refunds of taxes
 115 paid shall be limited to sales for use in home heating or
 116 cooking and shall be documented as prescribed by the department.

37-00118F-16

2016844__

117 (3) An excise tax of 3.3 ~~6.9~~ cents per gallon is imposed on
118 each gallon of aviation gasoline in the manner prescribed by
119 paragraph (2) (a). However, the exemptions allowed by paragraph
120 (2) (b) do not apply to aviation gasoline.

121 (4) Any licensed wholesaler or terminal supplier that
122 delivers undyed kerosene to a residence for home heating or
123 cooking may receive a credit or refund as the ultimate vendor of
124 the kerosene for the 3.3-cent ~~6.9-cent~~ excise tax previously
125 paid.

126 (5) Any licensed wholesaler or terminal supplier that
127 delivers undyed kerosene to a retail dealer not licensed as a
128 wholesaler or terminal supplier for sale as a home heating or
129 cooking fuel may receive a credit or refund as the ultimate
130 vendor of the kerosene for the 3.3-cent ~~6.9-cent~~ excise tax
131 previously paid, provided the retail dealer has no facility for
132 fueling highway vehicles from the tank in which the kerosene is
133 stored.

134 (6) Any person who fails to meet the requirements of this
135 section is subject to a backup tax as provided by s. 206.873.

136 Section 3. Except as otherwise expressly provided in this
137 act, this act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Dorothy L. Hukill, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: January 26, 2016

I respectfully request that **Senate Bill #844**, relating to Aviation Fuel Tax, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/2016

Meeting Date

844

Bill Number (if applicable)

388912

Amendment Barcode (if applicable)

Topic Aviation Fuel taxes

Name Lisa Waters

Job Title CEO / Florida Airports Council

Address 325 John Knop Rd.

Street

Tallahassee

City

Fl.

State

32303

Zip

Phone _____

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Airports Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/5/16

Meeting Date

844

Bill Number (if applicable)

3889/2

Amendment Barcode (if applicable)

Topic _____

Name George Stokes

Job Title Airport Mgr.

Address 2011 SE Airport Rd.

Street

Stuart

City

FL

34996

State

Zip

Phone 772-221-2374

Email gstokes@martin.fl.us

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Martin County Airport

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16
Meeting Date

SB 844
Bill Number (if applicable)

388912
Amendment Barcode (if applicable)

Topic AVIATION FUEL TAX

Name MICHAEL D. STEWART

Job Title DIRECTOR - EXTERNAL AFFAIRS

Address 14201 PECAN PARK
Street

Phone 904-741-2721

JAX FL 32218
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AMENDMENT
FLORIDA AIRPORTS COUNCIL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/2016

Meeting Date

SB844

Bill Number (if applicable)

388912

Amendment Barcode (if applicable)

Topic SB 844 Aviation Fuel Tax

Name Allan Penksa

Job Title CEO, Gainesville Regional Airport, Chairman, Florida Airports Council

Address 3642 NW 64th Lane

Phone 352 494-2258

Street

Gainesville, FL

32653

City

State

Zip

Email allan.penksa@flygainesville.com

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

AS Amended only

Representing Gainesville, Regional Airport

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16

Meeting Date

SB 844

Bill Number (if applicable)

388912

Amendment Barcode (if applicable)

Topic AVIATION FUEL TAX

Name PARKER W. McCLELLAN, JR., A.A.E.

Job Title EXECUTIVE DIRECTOR - NW FL BEACHES INTL AIRPORT

Address 6300 WEST BAY PARKWAY - BOX A

Street

Phone 850-634-8950

PANAMA CITY, FL

City

32409

State

Zip

Email pmcclellan@pcairport.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA AIRPORTS COUNCIL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02/08/16
Meeting Date

SB 844A
Bill Number (if applicable)

Amendment # 388912
Amendment Barcode (if applicable)

Topic Aviation Fuel TAXES

Name Roy Sieger

Job Title Airport Director

Address 201 Airport Road

Phone 386) 437-0401

Street
Palm Coast FL 32104
City State Zip

Email rsieger@taylorcounty.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Taylor Executive Airport

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02/08/2016
Meeting Date

SB 844
Bill Number (if applicable)

Topic Aviation Fuel Taxes

Amendment # 388912
Amendment Barcode (if applicable)

Name John R. Johnston

Job Title Lobbyist

Address 403 E. Park Ave
Street

Phone 850.591.4904

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Airport Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/2016

Meeting Date

SB 844

Bill Number (if applicable)

Topic AIRLINE FUEL TAXES

Amendment Barcode (if applicable)

Name DAVID DANIEL

Job Title _____

Address 311 EAST PARK AVE

Phone _____

Street

TALLAHASSEE FL 32301

Email _____

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing United Airlines

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16
Meeting Date

913 844
Bill Number (if applicable)

Topic Aviation Fuel Tax

Amendment Barcode (if applicable)

Name Fred Baggett

Job Title _____

Address 101 E. College Ave.
Street

Phone 425 8512

Tall. _____
City State Zip

Email FBaggett@GTLaw.com

Speaking: - For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Airlines For America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8

Meeting Date

844

Bill Number (if applicable)

Topic AVIATION FUEL TAX

Amendment Barcode (if applicable)

Name Jen Gaviria

Job Title Consultant

Address ~~101~~ 101 EAST COLLEGE AVE

Phone (954) 648-9977

Street

TLM FL 32301

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing DELTA AIRLINES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SJR 1194

INTRODUCER: Finance and Tax Committee and Senator Negron

SUBJECT: Tax Exemption for Senior, Totally Permanently Disabled First Responders

DATE: February 9, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 1194 proposes an amendment to the Florida Constitution to allow the Legislature to provide ad valorem tax relief to a first responder who is age 65 or older and totally permanently disabled as a result of an injury or injuries sustained in the line of duty. The amount of tax relief may equal the total amount or a portion of the ad valorem tax otherwise owed on homestead property.

The joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

If approved by the voters in the general election held November 2016, the joint resolution will become effective on January 1, 2017.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes,⁴ and it limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida’s aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Property Tax Exemptions

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.¹¹ The following information discusses the constitutional authority for exemptions related to disabled persons.

Homestead Exemption

Although not specific to disabled persons, Article VII, section 6 of the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies, including levies by school districts.¹² An

¹ Both real property and tangible personal property can be subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

¹² FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

additional \$25,000 homestead exemption applies to a homestead's property value between \$50,000 and \$75,000. The additional exemption does not apply to ad valorem taxes levied by school districts.

General Disability Exemption

Article VII, section 3(b) of the Florida Constitution provides for exemptions from property taxes for widows and widowers, blind persons, and persons who are totally and permanently disabled. The Legislature has implemented this provision through various property tax exemptions in chapter 196, Florida Statutes.

For example, s. 196.101, F.S., provides a property tax exemption for any real estate used and owned as a homestead by any quadriplegic, and any real estate used and owned as a homestead by a paraplegic, hemiplegic, or other totally and permanently disabled person who must use a wheelchair for mobility or who is legally blind.¹³ Generally, in order to qualify for the exemption, the taxpayer must submit evidence of such disability as certified by two licensed physicians of this state or the United States Department of Veterans Affairs or its predecessor.¹⁴ Except for a quadriplegic, a person applying for an exemption under s. 196.101, F.S., must also show that they meet certain income limitations.¹⁵

Section 196.081(1), F.S., provides a property tax exemption for the homesteads of totally and permanently disabled veterans who were honorably discharged with a service-connected disability and have a letter from the United States Government certifying their disability are also exempt.

Section 196.091, F.S., provides a property tax exemption for the homesteads of totally disabled veterans who were honorably discharged with a service-connected disability and have a letter from the United States Government certifying that the ex-servicemember is receiving or has received special pecuniary assistance for specially adopted housing due to the ex-servicemember's need for a wheelchair.

Homestead Discount for Combat-disabled Veterans

Article VII, section 6(e) of the Florida Constitution provides a property tax discount to honorably-discharged veterans, age 65 or older who are permanently disabled due to a combat-related injury. The exemption applies for partial or total disabilities. For partially disabled persons, the exemption is in proportion to the percentage of their disability. This exemption is implemented in section 196.082, F.S.

Homestead Exemption for Surviving Spouses of Veterans and First Responders

Article VII, section 6 of the Florida Constitution also authorizes the Legislature to provide, by general law, ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces, as well

¹³ Section 196.101(1)-(2), F.S.

¹⁴ Section 196.101(3), F.S.

¹⁵ Section 196.101(4), F.S.

as the surviving spouse of a first responder who died in the line of duty.¹⁶ This constitutional provision is implemented in s. 196.081, F.S. The Constitution defines “first responder” as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic.¹⁷

The Constitution defines “in the line of duty” as arising out of and in the actual performance of duty required by employment as a first responder.¹⁸ The term is further defined in statute to include:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in a training exercise related to any of the events or activities listed above if the training has been authorized by the employing entity.¹⁹

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to Article VII, section 6 of the Florida Constitution that would allow the Legislature to provide ad valorem tax relief to a first responder who is age 65 or older and totally permanently disabled as a result of an injury or injuries sustained in the line of duty. The amount of tax relief, to be defined by general law, can equal the total amount or a portion of the ad valorem tax otherwise owed on homestead property.

A causal connection between a disability and service in the line of duty may not be presumed, but must be determined as provided by general law. The term “disability” does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

If approved by 60 percent of voters, the proposed constitutional amendment will be effective January 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18 of the Florida Constitution do not apply to joint resolutions.

¹⁶ FLA. CONST. art. VII, s. 6(f).

¹⁷ FLA. CONST. art. VII, s 6(f)(3)a.

¹⁸ FLA. CONST. art. VII, s. (6)(f)(3)b.

¹⁹ Section 196.081(6)(c)2., F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article XI, section 1 of the Florida Constitution authorizes the Legislature to propose amendments to the Florida Constitution by joint resolution approved by a three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held more than 90 days after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, section 5(a) of the Florida Constitution and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”²⁰

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 6th week immediately preceding the week the election is held. The Department of State estimates that the costs for advertising the proposed constitutional amendment will be approximately \$136 per word with a minimum total publishing cost of \$151,742.²¹

Article XI, section 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect.

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

CS/SJR 1194 does not have a fiscal impact because, by itself, it does not grant property tax relief. The impact would occur when the Legislature implements the provision through a general bill.

²⁰ *Roberts v. Doyle*, 43 So. 3d 654, 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

²¹ Department of State, *Senate Joint Resolution 1194 Fiscal Analysis* (Jan. 12, 2016) (on file with the Senate Committee on Finance and Tax).

B. Private Sector Impact:

If CS/SJR 1194 is approved by the electorate and implemented by the Legislature, totally permanently disabled first responders who are over the age of 65 may receive property tax relief.

C. Government Sector Impact:

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 6th week immediately preceding the week the election is held. The Department of State estimated that the costs for advertising the proposed constitutional amendment will be approximately \$136 per word with a minimum total publishing cost of \$151,742.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

CS/SJR 1194 substantially amends the following articles of the Florida Constitution: Article VII, section 6 and Article XII.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

CS by Finance and Tax on February 8, 2016:

The CS removes a provision that requires the total and permanent disability to be determined by the Social Security Administration. The CS also makes technical changes.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²² *Id.*



230038

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Flores) recommended the following:

Senate Amendment (with ballot and title amendments)

Delete lines 111 - 133

and insert:

sustained in the line of duty. Causal connection between a disability and service in the line of duty shall not be presumed, but must be determined as provided by general law. For purposes of this paragraph, the term "disability" does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the



230038

11 chronic condition or chronic disease.

12

13 As used in this subsection and as further defined by general
14 law, the term:

15 ~~a.~~ "first responder" means a law enforcement officer, a
16 correctional officer, a firefighter, an emergency medical
17 technician, or a paramedic, and the term.

18 ~~b.~~ "in the line of duty" means arising out of and in the
19 actual performance of duty required by employment as a first
20 responder.

21

ARTICLE XII

22

SCHEDULE

23

24 Tax exemption for senior, totally permanently disabled
25 first responders.-The amendment to Section 6 of Article VII
26 relating to relief from ad valorem taxes assessed on homestead

27

===== B A L L O T S T A T E M E N T A M E N D M E N T =====

28

And the ballot statement is amended as follows:

29

Delete line 146

30

and insert:

31

sustained in the line of duty, to receive relief from ad

32

33

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

34

And the title is amended as follows:

35

Delete lines 7 - 8

36

and insert:

37

sustained in the line of duty, to receive relief from

38

ad valorem taxes assessed on homestead property, if

By Senator Negron

32-01164A-16

20161194__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution to authorize a first responder, who is age 65 or older and totally permanently disabled as a result of an injury sustained in the line of duty, to receive a discount on ad valorem taxes assessed on homestead property, if authorized by general law, and to provide an effective date.

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

That the following amendments to Section 6 of Article VII and the creation of a new section in 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 levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the

Page 1 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

32-01164A-16

20161194__

entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.

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

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

(d) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant either or both of the following additional homestead tax exemptions:

(1) An exemption not exceeding fifty thousand dollars to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner and

Page 2 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

32-01164A-16

20161194__

62 who has attained age sixty-five and whose household income, as
63 defined by general law, does not exceed twenty thousand dollars;
64 or

65 (2) An exemption equal to the assessed value of the
66 property to any person who has the legal or equitable title to
67 real estate with a just value less than two hundred and fifty
68 thousand dollars and who has maintained thereon the permanent
69 residence of the owner for not less than twenty-five years and
70 who has attained age sixty-five and whose household income does
71 not exceed the income limitation prescribed in paragraph (1).

72
73 The general law must allow counties and municipalities to grant
74 these additional exemptions, within the limits prescribed in
75 this subsection, by ordinance adopted in the manner prescribed
76 by general law, and must provide for the periodic adjustment of
77 the income limitation prescribed in this subsection for changes
78 in the cost of living.

79 (e) Each veteran who is age 65 or older who is partially or
80 totally permanently disabled shall receive a discount from the
81 amount of the ad valorem tax otherwise owed on homestead
82 property the veteran owns and resides in if the disability was
83 combat related and the veteran was honorably discharged upon
84 separation from military service. The discount shall be in a
85 percentage equal to the percentage of the veteran's permanent,
86 service-connected disability as determined by the United States
87 Department of Veterans Affairs. To qualify for the discount
88 granted by this subsection, an applicant must submit to the
89 county property appraiser, by March 1, an official letter from
90 the United States Department of Veterans Affairs stating the

32-01164A-16

20161194__

91 percentage of the veteran's service-connected disability and
92 such evidence that reasonably identifies the disability as
93 combat related and a copy of the veteran's honorable discharge.
94 If the property appraiser denies the request for a discount, the
95 appraiser must notify the applicant in writing of the reasons
96 for the denial, and the veteran may reapply. The Legislature
97 may, by general law, waive the annual application requirement in
98 subsequent years. This subsection is self-executing and does not
99 require implementing legislation.

100 (f) By general law and subject to conditions and
101 limitations specified therein, the Legislature may provide ad
102 valorem tax relief equal to the total amount or a portion of the
103 ad valorem tax otherwise owed on homestead property to ~~the~~:

104 (1) The surviving spouse of a veteran who died from
105 service-connected causes while on active duty as a member of the
106 United States Armed Forces.

107 (2) The surviving spouse of a first responder who died in
108 the line of duty.

109 (3) A first responder who is age 65 or older and totally
110 permanently disabled as a result of an injury or injuries
111 sustained in the line of duty. A first responder's total
112 permanent disability must first be determined by the United
113 States Social Security Administration. Causal connection between
114 a disability and service in the line of duty shall not be
115 presumed, but must be determined as provided by general law. For
116 purposes of this paragraph, the term "disability" does not
117 include a chronic condition or chronic disease, unless the
118 injury sustained in the line of duty was the sole cause of the
119 chronic condition or chronic disease.

32-01164A-16

20161194__

120

As used in this subsection and as further defined by general law, the term-

~~a.~~ "first responder" means a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic, ~~and the term-~~

~~b.~~ "in the line of duty" means arising out of and in the actual performance of duty required by employment as a first responder.

ARTICLE XII

SCHEDULE

Tax exemption for senior, totally permanently disabled first responders.-The amendment to Section 6 of Article VII relating to a discount on ad valorem taxes assessed on homestead property for first responders, who are age 65 or older and totally permanently disabled as a result of injuries sustained in the line of duty, takes effect January 1, 2017.

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

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 6

ARTICLE XII

TAX EXEMPTION FOR SENIOR, TOTALLY PERMANENTLY DISABLED FIRST RESPONDERS.-Proposing an amendment to the State Constitution to authorize a first responder, who is age 65 or older and totally permanently disabled as a result of injuries sustained in the line of duty, to receive a discount on ad valorem taxes assessed on homestead property, if authorized by general law. If approved by voters, the amendment takes effect

Page 5 of 6

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32-01164A-16

20161194__

149

January 1, 2017.

Page 6 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and
Civil Justice, *Chair*
Appropriations
Banking and Insurance
Ethics and Elections
Higher Education
Regulated Industries
Rules

SENATOR JOE NEGRON
32nd District

January 19, 2016

Dorothy Hukill, Chair
Committee on Finance and Tax
201 The Capitol
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Joint Resolution 1194

Dear Chair Hukill:

I would like to request Senate Joint Resolution 1194 relating to homestead exemption for disabled first responders be placed on the agenda for the next scheduled committee meeting.

Thank you for your consideration of this request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Joe Negron", written over a horizontal line.

Joe Negron
State Senator
District 32

JN/hd

c: Jose Diez-Arguelles, Staff Director

REPLY TO:

- 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665 FAX: (772) 219-1666
- 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

APPEARANCE RECORD



(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting).

Feb 8, 2016

Meeting Date

SJR 1194

Bill Number (if applicable)

Topic Tax Exemption First Responders

Amendment Barcode (if applicable)

Name Ken "cop-CHEN-SKI" KOPCZYNSKI

Job Title Lobbyist

Address 300 East Brevard St

Phone 202-3329

Street

Tallahassee FL 32301

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Fla PBA Inc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16

Meeting Date

1194

Bill Number (if applicable)

Topic Tax exemption for disabled

Amendment Barcode (if applicable)

Name Jim Tolley

Job Title President Fla Prof Firefighters

Address 345 West Madison St.

Phone 850 224 7333

Street

Tallahassee FL 32301

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Prof Firefighters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SB 1264

INTRODUCER: Agriculture Committee and Senator Simpson

SUBJECT: Sales Tax Exemptions for Agricultural Equipment

DATE: February 5, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	Fav/CS
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1264 increases the portion of the sales price of a trailer that is exempt from sales and use tax from below \$20,000 to below \$25,000 when purchased by a farmer for exclusive use in agricultural production or to transport farm products. It also expands the sales and use tax exemption for certain farm equipment to include:

- Fencing materials used in agricultural production on lands classified as agricultural under s. 193.461, F.S., and
- Compressed or liquefied oxygen used in aquaculture production.

The Revenue Estimating Conference estimates that CS/SB 1264 will reduce General Revenue receipts by \$12.4 million in Fiscal Year 2016-2017, with a recurring impact of \$13.5 million. CS/SB 1264 will reduce local government revenues by \$2.8 million in Fiscal Year 2016-2017, with a recurring impact of \$3 million.^{1,2,3}

The bill takes effect July 1, 2016.

¹ Florida Revenue Estimating Conference, *CS/SB 1264*, 407-417, (Jan. 29, 2016) available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/page407-417.pdf (last visited Feb. 4, 2016).

² Florida Revenue Estimating Conference, *Proposed Language (Trailers)*, (Jan. 22, 2016) available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/page86-87.pdf (last visited Feb. 4, 2016).

³ Florida Revenue Estimating Conference, *Proposed Language (Liquefied or Compressed Oxygen)*, (Nov. 6, 2015) available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/page130-131.pdf (last visited Feb. 4, 2016).

II. Present Situation:

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions,⁴ transient rentals,⁵ commercial real estate rentals,⁶ and a limited number of services. Chapter 212, F.S., contains statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of taxable goods or services and the tax is collected from the purchaser at the time of sale.

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by this chapter, and on communications services as defined in ch. 202."

Section 212.08(3)(b), F.S., exempts from the sales and use tax the portion of the sales price of a trailer below \$20,000 and that weigh 12,000 pounds or less that are purchased by a farmer. The trailers must be exclusively for use in agricultural production or to transport farm products from the farm to the place where the farmer transfers ownership of the product or products.

Chapter 212, F.S., also exempts specified items for agricultural use and certain nets from the sales and use tax.

III. Effect of Proposed Changes:

Section 1 amends s. 212.08, F.S., by increasing the portion of the sales price of a farm trailer that is exempt from sales and use tax from below \$20,000 to below \$25,000 when purchased by a farmer for exclusive use in agricultural production or to transport farm products from the farm to the place where the farmer transfers ownership of the product or products.

The bill also expands the list of agricultural items that are exempt from the sales and use tax to include:

- Fencing materials used in agricultural production on lands classified as agricultural under s. 193.461, F.S., and
- Compressed or liquefied oxygen used in aquaculture production.

Section 2 provides that this act shall take effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provision of Art. VII, Section 18, of the Florida Constitution may apply because the bill reduces the authority of municipalities and counties to raise revenue.

⁴ Section 212.04, F.S.

⁵ Section 212.03, F.S.

⁶ Florida Department of Revenue, *Who must pay tax? Partial list of taxable business activities*, available at http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited Oct. 2, 2015).

However, the bill appears to be exempt from the mandate provision because it has an insignificant fiscal impact. The Revenue Estimating Conference estimates that this bill reduces the authority that counties have to raise revenue through local option sales taxes by \$1.2 million, with a recurring impact of \$1.3 million, in Fiscal Year 2016-2017; therefore, the bill is exempt from the mandates provisions.⁷

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that CS/SB 1264 will reduce General Revenue receipts by \$12.4 million in Fiscal Year 2016-2017, with a recurring impact of \$13.5 million. CS/SB 1264 will reduce local government revenues by \$2.8 million in Fiscal Year 2016-2017, with a recurring impact of \$3 million.^{8,9,10}

B. Private Sector Impact:

The bill would reduce the amount of sales tax that agricultural producers must pay for specified products.

C. Government Sector Impact:

The Department of Revenue determined that the bill does not present difficulty in implementation, administration, or enforcement.¹¹

VI. Technical Deficiencies:

None.

⁷ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Oct. 6, 2015). Based on the Demographic Estimating Conference's population estimate adopted on December 1, 2015, the insignificant fiscal impact amount for Fiscal Year 2016-2017, is \$2 million or less. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 19, 2015).

⁸ Florida Revenue Estimating Conference, *CS/SB 1264*, 407-417, (Jan. 29, 2016) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/page407-417.pdf> (last visited Feb. 4, 2016).

⁹ Florida Revenue Estimating Conference, *Proposed Language (Trailers)*, (Jan. 22, 2016) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/page86-87.pdf> (last visited Feb. 4, 2016).

¹⁰ Florida Revenue Estimating Conference, *Proposed Language (Liquefied or Compressed Oxygen)*, (Nov. 6, 2015) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/pdf/page130-131.pdf> (last visited Feb. 4, 2016).

¹¹ Florida Department of Revenue, *Senate Bill 1264 Fiscal Analysis* (Jan. 7, 2015) available at <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=8510> (last visited Jan. 28, 2016).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 212.08 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Agriculture on January 19, 2016:

The committee substitute clarifies the definition of fencing materials.

B. Amendments:

None.

By the Committee on Agriculture; and Senators Simpson and Smith

575-02291-16

20161264c1

1 A bill to be entitled
 2 An act relating to sales tax exemptions for
 3 agricultural equipment; amending s. 212.08, F.S.;
 4 revising the maximum sales price of certain farm
 5 trailers that are exempt from the sales and use tax;
 6 exempting certain agricultural items from the tax;
 7 providing an effective date.

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

10
 11 Section 1. Paragraph (b) of subsection (3) and paragraph
 12 (a) of subsection (5) of section 212.08, Florida Statutes, are
 13 amended to read:

14 212.08 Sales, rental, use, consumption, distribution, and
 15 storage tax; specified exemptions.—The sale at retail, the
 16 rental, the use, the consumption, the distribution, and the
 17 storage to be used or consumed in this state of the following
 18 are hereby specifically exempt from the tax imposed by this
 19 chapter.

20 (3) EXEMPTIONS; CERTAIN FARM EQUIPMENT.—

21 (b) The tax may not be imposed on that portion of the sales
 22 price below \$25,000 ~~\$20,000~~ for a trailer weighing 12,000 pounds
 23 or less and purchased by a farmer for exclusive use in
 24 agricultural production or to transport farm products from his
 25 or her farm to the place where the farmer transfers ownership of
 26 the farm products to another. This exemption is not forfeited by
 27 using a trailer to transport the farmer's farm equipment. The
 28 exemption provided under this paragraph does not apply to the
 29 lease or rental of a trailer.

30 (5) EXEMPTIONS; ACCOUNT OF USE.—

31 (a) *Items in agricultural use and certain nets.*—There are
 32 exempt from the tax imposed by this chapter nets designed and

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

575-02291-16

20161264c1

33 used exclusively by commercial fisheries; disinfectants,
 34 fertilizers, insecticides, pesticides, herbicides, fungicides,
 35 and weed killers used for application on crops or groves,
 36 including commercial nurseries and home vegetable gardens, used
 37 in dairy barns or on poultry farms for the purpose of protecting
 38 poultry or livestock, or used directly on poultry or livestock;
 39 portable containers or movable receptacles in which portable
 40 containers are placed, used for processing farm products; field
 41 and garden seeds, including flower seeds; nursery stock,
 42 seedlings, cuttings, or other propagative material purchased for
 43 growing stock; seeds, seedlings, cuttings, and plants used to
 44 produce food for human consumption; cloth, plastic, and other
 45 similar materials used for shade, mulch, or protection from
 46 frost or insects on a farm; fencing materials used in
 47 agricultural production on lands classified as agricultural
 48 under s. 193.461; stakes used by a farmer to support plants
 49 during agricultural production; generators used on poultry
 50 farms; compressed or liquefied oxygen used in aquaculture
 51 production; and liquefied petroleum gas or other fuel used to
 52 heat a structure in which started pullets or broilers are
 53 raised; however, such exemption is not allowed unless the
 54 purchaser or lessee signs a certificate stating that the item to
 55 be exempted is for the exclusive use designated herein. Also
 56 exempt are cellophane wrappers, glue for tin and glass
 57 (apiarists), mailing cases for honey, shipping cases, window
 58 cartons, and baling wire and twine used for baling hay, when
 59 used by a farmer to contain, produce, or process an agricultural
 60 commodity.

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

Page 2 of 2

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16

Meeting Date

1264

Bill Number (if applicable)

Topic Ag Equipment

Amendment Barcode (if applicable)

Name Adam Basford

Job Title Legislative Affairs Director

Address 355 Calhoun #850

Phone 222-2557

Street

Tallahassee

FL

32301

Email adam.basford@

City

State

Zip

fls.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Farm Bureau

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16

Meeting Date

1264

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jim SPRATT

Job Title _____

Address 310 W. College Ave

Phone 850-228-1296

Street

TLH

City

FL

State

32301

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA NURSERY, GROWERS & LANDSCAPE ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16
Meeting Date

1264
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Butch Calhoun

Job Title _____

Address 119 S. Monroe, Suite 300
Street
Tallahassee FL 32302
City State Zip

Phone 521-0455

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Fruit & Vegetable Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16

Meeting Date

SB 1264

Bill Number (if applicable)

Topic Sales Tax Exemptions for Ag. Equipment

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Phone 850-224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: [] For [] Against [] Information

Waive Speaking: [x] In Support [] Against (The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SB 1272

INTRODUCER: Finance and Tax Committee and Senator Hukill

SUBJECT: Florida Renewable Energy Production Credit

DATE: February 9, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	Favorable
2.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1272 extends the Florida renewable energy production credit statute permanently and increases the annual cap on the total value of credits from the current \$10 million to \$15 million per year. It also deletes a provision that any unused credit funding in a fiscal year is to be used to fund renewable energy technologies investment tax credits against the corporate income tax as that credit expires December 31, 2016, and replaces it with a provision to carry forward the excess funds.

The bill also authorizes the Department of Agriculture and Consumer Affairs to conduct on-site monitoring visits to renewable energy facilities that receive certification for energy production tax credits to verify that the information contained in their application is true and correct.

The bill takes effect July 1, 2016.

The Revenue Estimating Conference estimates that CS/SB 1272 will reduce General Revenue Fund receipts by \$5 million in Fiscal Year 2016-2017 and by \$15 million annually beginning in Fiscal Year 2017-2018.

II. Present Situation:

Chapter 220, F.S., provides for corporate income tax. Section 220.193, F.S., provides for a credit against the corporate income tax for Florida renewable energy production. The purpose of the

credit is to encourage the development and expansion of facilities that produce renewable energy in Florida. The credit is allowed annually based on the taxpayer's¹ production and sale² of electricity from a new³ or expanded⁴ Florida renewable energy facility.⁵ For a new facility, the credit is based on the taxpayer's sale of the facility's entire electrical production. For an expanded facility, the credit is based on the increases in the facility's electrical production that are achieved after May 1, 2012.

The credit is \$0.01 for each kilowatt-hour of electricity produced and sold by the taxpayer to an unrelated party during a given tax year. It may be claimed for electricity produced and sold on or after January 1, 2013. Beginning in 2014 and continuing until 2017, each taxpayer claiming a credit under this section must apply to the Department of Agriculture and Consumer Services (DACS) by the date established by DACS for an allocation of available credits for that year. The application form must be adopted by DACS by rule in consultation with the Public Service Commission (commission.) The application form must, at a minimum, require a sworn affidavit from each taxpayer certifying the increase in production and sales that form the basis of the application and certifying that all information contained in the application is true and correct.

Credits may be earned between January 1, 2013, and June 30, 2016. The combined total amount of tax credits which may be granted for all taxpayers is limited to \$5 million in state fiscal year 2012-2013 and \$10 million per state fiscal year in state fiscal years 2013-2014 through 2016-2017. If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.192, F.S.,⁶ but were not allocated because of the statutory limit.

¹ The section defines the term "taxpayer" to include a general partnership, limited partnership, limited liability company, trust, or other artificial entity in which a corporation, as defined in s. 220.03(1)(e), F.S., owns an interest and is taxed as a partnership or is disregarded as a separate entity from the corporation under this chapter.

² The section defines the term "sale" or "sold" to include the use of electricity by the producer of such electricity which decreases the amount of electricity that the producer would otherwise have to purchase.

³ The section defines the term "new facility" to mean a Florida renewable energy facility that is operationally placed in service after May 1, 2006. The term includes a Florida renewable energy facility that has had an expansion operationally placed in service after May 1, 2006, and whose cost exceeded 50 percent of the assessed value of the facility immediately before the expansion.

⁴ The section defines the term "expanded facility" to mean a Florida renewable energy facility that increases its electrical production and sale by more than 5 percent above the facility's electrical production and sale during the 2011 calendar year.

⁵ The section defines the term "Florida renewable energy facility" to mean a facility in the state that produces electricity for sale from renewable energy, as defined in s. 377.803, F.S. The cross-referenced section defines "renewable energy" to mean electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, as defined in s. 366.91, F.S., solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power.

⁶ Section 220.192, F.S., provides a credit against corporate income tax, for tax years beginning on or after January 1, 2013, in an amount equal to the eligible costs, defined as 75 percent of all capital costs, operation and maintenance costs, and research and development costs incurred between July 1, 2012, and June 30, 2016, not to exceed \$1 million per state fiscal year for each taxpayer and up to a limit of \$10 million per state fiscal year for all taxpayers, in connection with an investment in the production, storage, and distribution of biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel in the state, including the costs of constructing, installing, and equipping such technologies in the state. Gasoline fueling station pump retrofits for biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel distribution qualify as an eligible cost under this section. These credits may be used in tax years beginning January 1, 2013, and ending December 31, 2016.

If the amount of credits applied for each year exceeds the amount authorized, DACS must allocate credits to qualified applicants based on the following priority.

- First priority is given to applicants who place a new facility in operation after May 1, 2012, up to a maximum of \$250,000 per applicant. If an applicant has remaining credits, they will be paid at the third priority level. If the claims for credits at this level of priority exceed the state fiscal year cap, credits are prorated among these applicants based upon each applicant's qualified production and sales as a percentage of total production and sales for all applicants in this category for the fiscal year.
- Second priority is given to applicants who do not qualify for the first level priority but who claim a credit of \$50,000 or less. If the claims for credits at this level push the total over the annual cap, second priority credits are prorated based upon each applicant's qualified production and sales as a percentage of total qualified production and sales for all applicants in this category for the fiscal year.
- Third priority is given to applicants who do not qualify for either first or second level priority and to an applicant who did qualify for first level priority but has remaining unallocated credits. If there are insufficient credits left to meet these claims, the credits are to be prorated based upon each applicant's unallocated claims for qualified production and sales as a percentage of total unallocated claims for qualified production and sales of all applicants in this category, up to a maximum of \$1 million per taxpayer per state fiscal year. If, after application of this \$1 million cap, there is excess capacity under the state fiscal year cap in any state fiscal year, that remaining capacity is to be used to allocate additional credits with priority given in the order set forth for third level priority claims and without regard to the \$1 million per taxpayer cap.

If the credit granted to a taxpayer is not fully used in one year because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for a period not to exceed five years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year, after applying the other credits and unused credit carryovers.

DACS must determine the eligibility of the applicant for the credits sought and certify the determination to the applicant and the Department of Revenue (DOR). DACS also is responsible for ensuring that the corporate income tax credits granted in each fiscal year do not exceed the limits provided for in this section. DACS must determine and regularly publish on its website the amount of available tax credits remaining in each fiscal year.

DOR is authorized to perform additional financial and technical audits and investigations, including examining the accounts, books, and records of the tax certificate applicant, which are necessary to verify the information on the tax return and to ensure compliance. DACS is directed to provide technical assistance when requested by DOR on any technical audits or examinations.

III. Effect of Proposed Changes:

Currently, the annual limit on the total amount of credits that may be allocated is \$10 million through Fiscal Year 2016-2017. The bill removes the expiration date and increases the limit to \$15 million per year.

When the Florida renewable energy production credit was created in 2006,⁷ it was applicable to credits earned between January 1, 2007 and June 30, 2010. In 2012, the credit was revived for another four-year period, applying to credits earned between January 1, 2013, and June 30, 2016.⁸ The bill deletes all references to time-period limitations, making the credit permanent, unless revised by a future Legislature.

As noted above, the statute currently provides that if the annual tax credit authorization amount is not used within a particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.192, F.S., but unallocated due to a lack of authorized funds. That section provides a corporate income tax credit for specified types of expenditures for renewable fuel technologies. The section also provides that the credits may be earned in tax years beginning January 1, 2013, and ending December 31, 2016, after which the credit expires. This credit is not being renewed. Accordingly the bill changes the s. 220.193, F.S., provision on use of any unused renewable energy production credit money in any particular fiscal year, providing that the unused money is to be carried forward.

The bill authorizes DACS to conduct on-site monitoring visits to renewable energy facilities that receive certification for energy production tax credits to verify that the information contained in their application is true and correct.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/SB 1272 reduces the General Revenue Fund by \$5 million in Fiscal Year 2016-2017 and by \$15 million on a recurring basis.

⁷ Chapter 2006-230, s. 13, Laws of Fla.

⁸ Chapter 2012-117, s. 7, Laws of Fla.

B. Private Sector Impact:

CS/SB 1272 makes the Florida renewable energy production credit against the corporate income tax statute permanent, and increases the cap on the credit from \$10 million to \$15 million for Fiscal Year 2016-2017 and by \$15 million on a recurring basis, which will benefit those corporations that produce renewable energy.

CS/SB 1272 authorizes on-site monitoring visits by DACS for facilities certified to receive tax credits.

C. Government Sector Impact:

DACS is authorized to conduct on-site monitoring visits to renewable energy facilities that receive certification for energy production tax credits to verify that the information contained in their application is true and correct.

VI. Technical Deficiencies:

The Department of Revenue states that “it is unclear how the effective date should be applied to the corporate income tax (i.e., tax years ending on or after July 1, 2016, tax years beginning on or after July 1, 2016, or some other application).” The department suggests that the effective date provision read: “This act shall take effect July 1, 2016, and shall apply to tax years ending on or after December 31, 2016.”

VII. Related Issues:

Since its original enactment, s. 220.193, F.S., has provided: “The purpose of this section is to encourage the development and expansion of facilities that produce renewable energy in Florida.” To accomplish this, the credits were available only for “the taxpayer’s production and sale of electricity from a new or expanded Florida renewable energy facility,” with a new facility being one “operationally placed in service after May 1, 2006” and an expanded facility being one “that increases its electrical production and sale by more than five percent above the facility’s electrical production and sale during the 2005 calendar year.”

While the bill retains this stated purpose in the statute, it is uncertain how far the bill will go in accomplishing it. According to a report supporting the extension of the renewable energy production credit:

During the most recent state tax year, 15 renewable energy resources generated 1,385,000 megawatt hours (MWh). They would have qualified for up to \$13.8 million in EPCs [energy production credits] but for the cap. ... As can be seen, among the 15 entities are firms operating in competitive industries (i.e., agriculture, fertilizer, forest products). Other recipients include electric utilities, landfill management and food recycling firms.”⁹

⁹ J. Pollock Incorporated, *The Policy Reasons for Renewing the Energy Production Credit*, (Sept. 2015, page 2) (on file with the Senate Committee on Communications, Energy, and Public Utilities).

Even extending the cap to \$15 million, it appears that existing production facilities will produce enough renewable energy to earn the full amount of credits available. Thus the bill's effect as an incentive for new or expanded facilities is uncertain. This seems to be acknowledged in the report, which states: "Thus, the EPC [energy production credit] will help retain industries that have invested in renewable resources."¹⁰

VIII. Statutes Affected:

This bill substantially amends section 220.193 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Finance and Tax on February 8, 2016:

The CS authorizes DACS to conduct on-site monitoring visits to renewable energy facilities that receive certification for energy production tax credits to verify that the information contained in their application is true and correct.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁰ *Id.*



669104

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/09/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Hukill) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 51 - 52

and insert:

(5) (a) In addition to its existing audit and investigation authority, the Department of Revenue may perform any additional financial and technical audits and investigations, including examining the accounts, books, and records of the tax credit applicant, which are necessary to verify the information



669104

10 included in the tax credit return and to ensure compliance with
11 this section. The Department of Agriculture and Consumer
12 Services may conduct on-site monitoring visits to renewable
13 energy facilities that received certification under this section
14 to verify that the information contained in their application
15 was true and correct, and shall provide technical assistance
16 when requested by the Department of Revenue on any technical
17 audits or examinations performed pursuant to this section.

18
19 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

20 And the directory clause is amended as follows:

21 Delete line 14

22 and insert:

23 Section 1. Paragraphs (b) and (g) of subsection (3),
24 paragraph (a) of subsection (5), and

25
26 ===== T I T L E A M E N D M E N T =====

27 And the title is amended as follows:

28 Delete lines 8 - 9

29 and insert:

30 authorizing the Department of Agriculture and Consumer
31 services to conduct onsite monitoring:



832536

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Hukill) recommended the following:

1 **Senate Substitute for Amendment (669104) (with directory**
2 **and title amendments)**

3
4 Between lines 51 and 52
5 insert:

6 (5) (a) In addition to its existing audit and investigation
7 authority, the Department of Revenue may perform any additional
8 financial and technical audits and investigations, including
9 examining the accounts, books, and records of the tax credit



832536

10 applicant, which are necessary to verify the information
11 included in the tax credit return and to ensure compliance with
12 this section. The Department of Agriculture and Consumer
13 Services may conduct on-site monitoring visits to renewable
14 energy facilities that received certification under this section
15 to verify that the information contained in their application
16 was true and correct, and shall provide technical assistance
17 when requested by the Department of Revenue on any technical
18 audits or examinations performed pursuant to this section.

19
20 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

21 And the directory clause is amended as follows:

22 Delete line 14

23 and insert:

24 Section 1. Paragraphs (b) and (g) of subsection (3),
25 paragraph (a) of subsection (5), and

26
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 Delete line 8

30 and insert:

31 permissible use of certain unallocated credit amounts;
32 authorizing the Department of Agriculture and Consumer
33 Services to conduct onsite monitoring;

By Senator Hukill

8-01182A-16

20161272__

A bill to be entitled

An act relating to the Florida renewable energy production credit; amending s. 220.193, F.S.; deleting the time limit for the renewable energy production credit against the corporate income tax; revising the total amount of tax credits which may be granted to taxpayers per state fiscal year; revising the permissible use of certain unallocated credit amounts; deleting an obsolete provision relating to applicability; providing an effective date.

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

Section 1. Paragraphs (b) and (g) of subsection (3) and subsection (8) of section 220.193, Florida Statutes, are amended to read:

220.193 Florida renewable energy production credit.—

(3) An annual credit against the tax imposed by this section shall be allowed to a taxpayer, based on the taxpayer's production and sale of electricity from a new or expanded Florida renewable energy facility. For a new facility, the credit shall be based on the taxpayer's sale of the facility's entire electrical production. For an expanded facility, the credit shall be based on the increases in the facility's electrical production that are achieved after May 1, 2012.

(b) The credit may be claimed for electricity produced and sold on or after January 1, 2013. ~~Beginning in 2014 and continuing until 2017,~~ Each taxpayer claiming a credit under this section must apply to the Department of Agriculture and Consumer Services by the date established by the Department of Agriculture and Consumer Services for an allocation of available credits for that year. The application form shall be adopted by

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-01182A-16

20161272__

rule of the Department of Agriculture and Consumer Services in consultation with the commission. The application form shall, at a minimum, require a sworn affidavit from each taxpayer certifying the increase in production and sales that form the basis of the application and certifying that all information contained in the application is true and correct.

(g) ~~Notwithstanding any other provision of this section, credits for the production and sale of electricity from a new or expanded Florida renewable energy facility may be earned between January 1, 2013, and June 30, 2016.~~ The combined total amount of tax credits which may be granted for all taxpayers under this section is limited to \$15 million per state fiscal year ~~\$5 million in state fiscal year 2012-2013 and \$10 million per state fiscal year in state fiscal years 2013-2014 through 2016-2017.~~ If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be carried forward used to grant credits that were earned pursuant to s. 220.192 but unallocated due to a lack of authorized funds.

~~(8) This section shall take effect upon becoming law and shall apply to tax years beginning on and after January 1, 2013.~~

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

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16
Meeting Date

SB 1272
Bill Number (if applicable)

Topic Renewable Energy Tax Credit

Amendment Barcode (if applicable)

Name Jonathan Rees

Job Title Deputy Director, Legislative Affairs

Address 400 S. Monroe
Street

Phone (850) 617-7122

Tallahassee FL 32399
City State Zip

Email Jonathan.Rees@freshfromflorida.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Department of Agriculture and Consumer Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16
Meeting Date

1272
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jim Spurr

Job Title _____

Address 310 W, College Ave
Street
TLH FL 32301
City State Zip

Phone 850-228-1296

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Forestry Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1272

Meeting Date _____

Bill Number (if applicable) _____

Topic Renewable Energy

Amendment Barcode (if applicable) _____

Name Sean Stafford

Job Title _____

Address 115 E Park Ave

Phone 727-5000

Street

Tallahassee, FL

City

State

32301

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Crystals

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-8-16

Meeting Date

1272

Bill Number (if applicable)

Topic Renewable Energy Production Tax Program

Amendment Barcode (if applicable)

Name Lee Killinger

Job Title Director, Public Policy & Govt Affairs

Address 215 S. Monroe St., Suite 730

Phone 850-556-4464

Street

Tallahassee

City

FL

State

32301

Zip

Email killinger@mosaic.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Mosaic

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16

Meeting Date

SB 1272

Bill Number (if applicable)

Topic Florida Renewable Energy Production Credit

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St

Phone 850-224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/CS/SB 1652

INTRODUCER: Finance and Tax Committee; Community Affairs Committee; and Senators Bradley and Bean

SUBJECT: Discretionary Sales Surtaxes

DATE: February 9, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Present</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 1652 provides that a county may levy a pension liability surtax to fund underfunded defined benefit retirement plans or systems at a rate up to 0.5 percent. The county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The pension liability surtax terminates at the end of the year when the actuarial funding level of the plan or system for which the tax was levied reaches or exceeds 100 percent, or December 31, 2060, whichever occurs earlier.

The county may levy the pension liability surtax only if:

- An employee who enters employment on or after the date that the local government closes an underfunded defined benefit retirement plan or system is prohibited from enrolling in a defined benefit retirement plan or system that will receive the surtax proceeds; and
- The county currently levies a local government infrastructure surtax which is scheduled to terminate and is not subject to renewal.

The Department of Revenue (DOR) is authorized to retain an administrative fee of up to two percent of the surtax proceeds. Proceeds of the tax must be distributed to an eligible defined benefit retirement plan or system if the proceeds have been actuarially recognized; if the proceeds have not been actuarially recognized the local government may borrow against the

anticipated revenue and use the proceeds to repay these debts, reimburse itself for borrowing costs, and make distributions to an eligible defined benefit retirement plan or system.

The bill limits to one percent the combined rate of the Pension Liability Surtax, the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent and Trauma Center Surtax, and the County Public Hospital Surtax.

The surtax must be enacted by ordinance and approved by a majority of electors of the county voting in a referendum.

The Revenue Estimating Conference determined that the surtax authorized by this bill would most likely be levied by the City of Jacksonville, which currently levies a local government infrastructure surtax which is scheduled to terminate no later than December 31, 2030. Since the pension liability surtax must be approved by referendum and cannot take effect until the current local government infrastructure surtax is terminated, the bill's impact on local government revenue is zero or indeterminate, positive.

II. Present Situation:

Local Discretionary Sales Surtaxes

In addition to the six percent state sales tax, the Florida Statutes authorize counties to charge discretionary sales surtaxes,¹ which must be specifically designated by statute.² Eight different types of local discretionary sales surtaxes (also referred to as local option sales taxes) are currently authorized and represent potential revenue sources for county and municipal governments and school districts.³ The local discretionary sales surtaxes apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions authorized pursuant to ch. 212, F.S., and communications services as defined for the purposes of ch. 202, F.S.⁴ Section 212.054, F.S., provides for the administration and collection of discretionary sales surtaxes; subsection (5) of that section provides that no discretionary sales surtax or increase or decrease in the rate of any such tax shall take effect on a date other than January 1, and no such tax shall terminate on a day other than December 31. Section 2.054(7)(a), F.S., requires the governing body of any county to notify DOR by October 1 of an ordinance that would result in the termination of the surtax on or after October 1 of that year. Failure to timely provide such notification results in the delay of the termination date by 1 year.

The eight types of local discretionary sales surtaxes are:

- The Charter County and Regional Transportation System Surtax in s. 212.055(1), F.S.;
- The Local Government Infrastructure Surtax in s. 212.055(2), F.S.;
- The Small County Surtax in s. 212.055(3), F.S.;
- The Indigent Care and Trauma Center Surtax in s. 212.055(4), F.S.;
- The County Public Hospital Surtax in s. 212.055(5), F.S.;

¹ A local discretionary sales surtax may also be known as a local option county sales tax. A surtax is an "additional tax imposed on something being taxed or on the primary tax itself." BLACK'S LAW DICTIONARY 704 (3rd ed. 2006).

² Sections 212.054 and 212.055, F.S.

³ Florida Revenue Estimating Conference, *Florida Tax Handbook*, pg. 215 (2016).

⁴ *Id.*

- School Capital Outlay Surtax in s. 212.055(6), F.S.;
- The Voter-Approved Indigent Care Surtax in s. 212.055(7), F.S.; and
- The Emergency Fire Rescue Services and Facilities Surtax in s. 212.055(8), F.S.

A discretionary sales surtax applies to transactions if:⁵

- The selling dealer delivers taxable goods or taxable service in or into a county with a surtax.
- The event for which an admission is charged is located in a county with a surtax. Tax is due at the rate in the county where the event takes place.
- The consumer of electric power or energy is located in a county with a surtax.
- The sale of prepaid calling arrangements occurs in a county with a surtax.
- The location or delivery of tangible personal property covered by a service warranty is within a county with a surtax. The person receiving consideration for the issuance of a service warranty from the agreement holder must collect surtax at the rate imposed by that county.
- The commercial real property that is leased or rented, or upon which a license for use is granted, is in a county with a surtax.
- The rental of living or sleeping accommodations (transient rentals) occurs in a county with a surtax.
- A registered dealer owing use tax on purchases or leases is located in a county with a surtax.

During the 2015-16 local fiscal year, the 49 county governments and 15 school districts levying one or more local discretionary sales surtaxes will realize an estimated \$2.15 billion in revenue.⁶

Local Government Infrastructure Surtax

The Local Government Infrastructure Surtax is one of the surtaxes authorized by s. 212.055, F.S., which may be levied by the governing authority in each county after a majority vote of the electorate through a local referendum.⁷ The surtax may be levied at 0.5 percent or 1.0 percent.⁸ Proceeds are distributed to the county and the municipalities within the county according to an interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, or if there is no interlocal agreement, according to the formula in s. 218.62, F.S.⁹

The proceeds of the surtax must be expended only to:

- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum; or

⁵ Florida Department of Revenue, *Florida's Discretionary Sales Surtax, 2*, available at http://dor.myflorida.com/Forms_library/current/gt800019.pdf (last visited Oct. 28, 2015).

⁶ Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, at 152 (December 2015) available at <http://www.edr.state.fl.us/Content/local-government/reports/lgfih15.pdf> (last visited Jan. 21, 2016).

⁷ Section 212.055(2)(a)1., F.S.

⁸ However, the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent. Section 212.055(2)(h), F.S.

⁹ Section 212.055(2)(c)1., F.S. The agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities.

- Finance the closure of county-owned or municipally-owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection.¹⁰

While all counties are authorized to levy the surtax, only 18 counties currently do so. Two counties levy the surtax at the rate of 0.5 percent: Duval and Hillsborough. Sixteen counties levy the surtax at the rate of one percent: Charlotte, Clay, Escambia, Glades, Highlands, Indian River, Lake, Leon, Monroe, Osceola, Pasco, Pinellas, Putnam, Sarasota, Seminole, and Wakulla. During the 2015-2016 Fiscal Year, these counties are expected to receive revenues of \$691,831,985.¹¹ All 18 counties that currently levy the tax are scheduled to terminate, with the latest termination date being Leon County on Dec. 31, 2039.¹²

The surtax may not be levied beyond the time established in the ordinance if the surtax was levied pursuant to a referendum held before July 1, 1993.¹³ If the pre-July 1, 1993, ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years.¹⁴ There is no state-mandated limit on the length of levy for those surtax ordinances enacted after July 1, 1993. The levy may only be extended by voter approval in a countywide referendum.¹⁵

Combined Tax Rate Caps for Discretionary Sales Surtaxes

Certain discretionary sales surtax levy combinations are subject to tax rate caps such that the combined rate of the surtaxes may not exceed one percent.¹⁶

Actuarial Soundness of Retirement Systems

Part VII of Chapter 112 of the Florida Statutes governs the Actuarial Soundness of Retirement Systems. The intent of this part is to ensure that governmental retirement systems or plans are “managed, administered, operated, and funded in such a manner as to maximize the protection of public employee retirement benefits.”¹⁷ The part establishes minimum standards for the operation and funding of public employee retirement systems and plans.¹⁸ The provisions of part VII are applicable to “any and all units, agencies, branches, departments, boards, and institutions of state, county, special district, and municipal governments which participate in, operate, or administer a retirement system or plan for public employees, funded in whole or in part by public funds.”¹⁹ Each retirement system or plan under part VII must have regularly scheduled actuarial

¹⁰ Section 212.055(2)(d), F.S.

¹¹ Dollar amounts are estimates. Florida Revenue Estimating Conference, *Florida Tax Handbook*, pg. 226 (2015).

¹² See Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, at pgs. 154-155 (December 2015) available at <http://www.edr.state.fl.us/Content/local-government/reports/lghih15.pdf> (last visited Jan. 21, 2016).

¹³ Section 212.055(2)(a)2., F.S.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See sections 212.055(2)(h), 212.055(3)(f), 212.055(4)(b)5., and 212.055(5)(f), F.S.

¹⁷ Section 112.61, F.S.

¹⁸ *Id.*

¹⁹ Section 112.62, F.S.

reports prepared and certified by an enrolled actuary.²⁰ The actuarial report must include, but is not limited to, the following:

- Adequacy of employer and employee contribution rates in meeting levels of employee benefits provided in the system and changes, if any, needed in such rates to achieve or preserve a level of funding deemed adequate to enable payment through the indefinite future of the benefit amounts prescribed by the system, which shall include a valuation of present assets, based on statement value, and prospective assets and liabilities of the system and the extent of unfunded accrued liabilities, if any.
- A plan to amortize any unfunded liability pursuant to s. 112.64, F.S., and a description of actions taken to reduce the unfunded liability.
- A description and explanation of actuarial assumptions.
- A schedule illustrating the amortization of unfunded liabilities, if any.
- A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports.
- Effective January 1, 2016, the mortality tables used in either of the two most recently published actuarial valuation reports of the Florida Retirement System.
- A statement by the enrolled actuary that the report is complete and accurate and that in his or her opinion the techniques and assumptions used are reasonable and meet the requirements and intent of this act.²¹

Section 112.64, F.S., governs the amortization of unfunded liability for such retirement systems or plans. For those plans in existence on October 1, 1980, the total contributions to the retirement system or plan shall be sufficient to meet the normal cost of the retirement system or plan and to amortize the unfunded liability, if any, within 40 years; however, nothing contained in this subsection permits any retirement system or plan to amortize its unfunded liabilities over a period longer than that which remains under its current amortization schedule.²² For a retirement system or plan which comes into existence after October 1, 1980, the unfunded liability, if any, shall be amortized within 40 years of the first plan year.²³ The net increase, if any, in unfunded liability under the plan arising from significant plan amendments adopted, changes in actuarial assumptions, changes in funding methods, or actuarial gains or losses shall be amortized within 30 plan years.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 112.64, F.S., providing that the proceeds of a pension liability surtax imposed by a county pursuant to s. 212.055, F.S., which is levied for the purpose of funding or amortizing the unfunded liability of a defined benefit retirement plan or system, excluding the Florida Retirement System, shall be actuarially recognized, and the county shall apply the present value of the total projected proceeds of the surtax to reduce the unfunded liability or to amortize it as part of the county's annual required contribution, beginning with the fiscal year immediately following approval of the pension liability surtax. The unfunded liability

²⁰ Section 112.63(1), F.S.

²¹ *Id.*

²² Section 112.64(2), F.S.

²³ Section 112.64(3), F.S.

²⁴ Section 112.64(4), F.S.

amortization schedule must be adjusted beginning with the fiscal year immediately following approval of the pension liability surtax and amortized over a period of 30 years.

The payroll of all employees covered by a closed retirement plan or system that receives funds from the pension liability surtax must be included in determining the unfunded liability amortization schedule for the closed plan, regardless of the plan in which the employees currently participate, and the payroll growth assumption must be adjusted to reflect the payroll of those employees when calculating the amortization of the unfunded liability.

Section 2 amends s. 212.055, F.S., authorizing the governing body of a county to levy a pension liability surtax to fund underfunded defined benefit retirement plans or systems, pursuant to an ordinance conditioned to take effect upon approval by a majority vote of the electors of the county voting in a referendum, at a rate that may not exceed 0.5 percent. The county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The most recent actuarial report submitted to the Department of Management Services pursuant to s. 112.63, F.S., must be used to establish the level of actuarial funding for purposes of determining eligibility to impose the surtax. The governing body of a county may impose the surtax only if:

- An employee, including a police officer or firefighter, who enters employment on or after the date that the local government closes an underfunded defined benefit retirement plan or system, is prohibited from enrolling in a defined benefit retirement plan or system that will receive the surtax proceeds.
- The county currently levies a local government infrastructure surtax pursuant to s. 212.055(2), F.S., which is scheduled to terminate and is not subject to renewal. The pension liability surtax does not take effect until the local government infrastructure surtax is terminated.

A referendum to adopt a pension liability surtax must meet the requirements of s. 101.161, F.S., and must include a brief and general description of the purposes for which the surtax proceeds will be used. Section 101.161, F.S., requires the public measure to include a ballot summary that is printed in clear and unambiguous language on the ballot. The ballot summary must be an explanatory statement of the chief purpose of the measure and may not exceed 75 words in length.²⁵ Furthermore, the Financial Impact Estimating Conference must prepare a separate financial impact statement concerning the measure in accordance with s. 100.371, F.S.²⁶

Pursuant to s. 212.054(4), F.S., the proceeds of the surtax collected under s. 212.055(9), F.S., less an administrative fee that may be retained by the DOR, shall be distributed by the DOR to the local government. The local government shall distribute the proceeds it receives from the DOR to an eligible defined benefit retirement plan or system, except the Florida Retirement System, if the proceeds have been actuarially recognized as provided for in s. 112.64(6), F.S. If the proceeds have not been actuarially recognized, the local government may distribute them to an eligible defined benefit retirement plan, pledge the proceeds to repay debts incurred for the purpose of making advanced payments toward the unfunded liability of an underfunded defined

²⁵ Section 101.161(1), F.S.

²⁶ *Id.*

benefit retirement plan or system, and to reimburse itself for any borrowing costs associated with such debts.

The ordinance providing for the imposition of the pension liability surtax must specify the method of determining the percentage of the proceeds, and the frequency of such payments, distributed to each eligible defined benefit retirement plan or system. The ordinance must also specify the local government's intention to incur debt for the purpose of making advanced payments toward the unfunded liability of an underfunded defined benefit retirement plan or system, if the proceeds are not actuarially recognized.

A pension liability surtax shall terminate on December 31 of the year in which the actuarial funding level is expected to reach or exceed 100 percent for the defined benefit retirement plan or system for which the surtax was levied, or December 31, 2060, whichever occurs first. The level of actuarial funding must be based upon the most recent actuarial report submitted to the Department of Management Services pursuant to s. 112.63, F.S.

The bill limits to one percent the combined rate of the Pension Liability Surtax, the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent and Trauma Center Surtax, and the County Public Hospital Surtax.

Section 3 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the surtax authorized by CS/CS/SB 1652 would most likely be levied by the City of Jacksonville, which currently has three substantially underfunded public pension funds²⁷ and has adopted a resolution urging the Florida Legislature to adopt such legislation.²⁸ Duval County currently levies a local

²⁷ Material provided by Thomas Griffin, registered lobbyist for the city of Jacksonville (on file with the Senate Finance and Tax Committee).

²⁸ Council of the City of Jacksonville, *Resolution 2016-17 in Support of Sales Surtax Extension* (on file with the Senate Finance and Tax Committee).

government infrastructure surtax which is scheduled to terminate no later than December 31, 2030.²⁹ Since the pension liability surtax must be approved by referendum and may not take effect until the current local government infrastructure surtax is terminated, the bill's impact on local government revenue is zero or indeterminate, positive.³⁰

B. Private Sector Impact:

The bill does not directly impact the private sector, but if a county approves the surtax by referendum, it will increase the tax rates on transactions in the county.

C. Government Sector Impact:

The bill provides additional taxing authority to certain counties.

The Department of Revenue has determined that the bill will have an insignificant fiscal impact on the department.³¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 112.64 and 212.055.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Finance and Tax on February 8, 2016:

The CS/CS makes several changes to clarify the administration of the pension liability surtax and explicitly authorizes the local government to borrow against surtax proceeds to make advanced payments toward the unfunded liability of an underfunded plan or system.

CS by Community Affairs on January 26, 2016:

Limits to one percent the combined rate of the Pension Liability surtax, the Local Government Infrastructure surtax, the Small County Surtax, the Indigent and Trauma Center surtax, and the County Public Hospital surtax.

²⁹ Office of Economic and Demographic Research, *2015 Local Government Financial Information Handbook*, p. 154.

³⁰ For the local fiscal year ending Sept. 30, 2016, a 0.5 percent surtax in Duval County would yield \$81,044,120.

³¹ Florida Department of Revenue, *Senate Bill 1652 Fiscal Analysis*, 3 (Jan. 13, 2016) (on file with the Senate Committee on Finance and Tax).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



957874

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Flores) recommended the following:

Senate Amendment

Delete line 46

and insert:

(b) The payroll of all employees covered



532318

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Flores) recommended the following:

Senate Amendment

Delete lines 84 - 88
and insert:

1. An employee, including a police officer or firefighter, who enters employment on or after the date when the local government certifies that the defined benefit retirement plan or system formerly available to such an employee has been closed may not enroll in a defined benefit retirement plan or system that will receive surtax proceeds.



389704

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete lines 99 - 120
and insert:

(c) Pursuant to s. 212.054(4), the proceeds of the surtax collected under this subsection, less an administrative fee that may be retained by the department, shall be distributed by the department to the local government.

(d) The local government may use the pension liability surtax proceeds in the following manner:



389704

11 1. If the proceeds of the pension liability surtax have
12 been actuarially recognized as provided for in s. 112.64(6), the
13 local government must distribute the proceeds to an eligible
14 defined benefit retirement plan or system, not including the
15 Florida Retirement System.

16 2. If the proceeds of the pension liability surtax have not
17 been actuarially recognized, the local government is authorized
18 to distribute the proceeds to an eligible defined benefit
19 retirement plan or system, not including the Florida Retirement
20 System, to pledge the proceeds of the surtax to repay debts
21 incurred for the purpose of making advanced payments toward the
22 unfunded liability of an underfunded defined benefit retirement
23 plan or system, and to reimburse itself from the proceeds of the
24 surtax for any borrowing costs associated with such debts.

25 (e) The ordinance providing for the imposition of the
26 pension liability surtax must specify how the proceeds will be
27 used:

28 1. The ordinance must specify the method of determining the
29 percentage of the proceeds, and the frequency of such payments,
30 distributed to each eligible defined benefit retirement plan or
31 system if the proceeds of the pension liability surtax are
32 actuarially recognized as provided for in s. 112.64(6).

33 2. The ordinance must specify the local government's
34 intention to incur debt for the purpose of making advanced
35 payments toward the unfunded liability of an underfunded defined
36 benefit retirement plan or system if the proceeds of the pension
37 liability surtax are not actuarially recognized as provided for
38 in s. 112.64(6).

39



389704

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

41 And the title is amended as follows:

42 Delete lines 12 - 20

43 and insert:

44 Revenue to distribute the surtax proceeds, less
45 administrative fees; specifying the manner in which a
46 local government may use the surtax proceeds;
47 prescribing requirements for the ordinance that
48 provides for the imposition of the surtax; specifying
49 conditions



324298

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2016	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Flores) recommended the following:

Senate Amendment

Delete lines 121 - 125
and insert:

(d) A pension liability surtax imposed pursuant to this subsection shall terminate on December 31 of the year in which the actuarial funding level is expected to reach or exceed 100 percent for the defined benefit retirement plan or system for which the surtax was levied or December 31, 2060, whichever occurs first. The most recent actuarial report submitted to the



324298

11 Department of Management Services pursuant to s. 112.63 must be
12 used to establish the level of actuarial funding.

By the Committee on Community Affairs; and Senators Bradley,
Bean, and Hutson

578-02605-16

20161652c1

A bill to be entitled

An act relating to discretionary sales surtaxes; amending s. 112.64, F.S.; authorizing a county to apply proceeds of a pension liability surtax toward reducing the unfunded liability of a defined benefit retirement plan or system; specifying the method of determining the amortization schedule if a surtax is approved; amending s. 212.055, F.S.; authorizing a county to levy a pension liability surtax by ordinance if certain conditions are met; prescribing the form of the ballot statement; requiring the Department of Revenue and participating local governments to distribute the surtax proceeds, less administrative fees; requiring the ordinance to specify the method and frequency of distributing proceeds; prohibiting a defined benefit retirement plan or system from receiving surtax proceeds after a certain level of actuarial funding is reached; requiring that surtax proceeds be used to reduce or amortize the unfunded liability of the system or plan; specifying conditions under which the surtax terminates; limiting the combined rate of specified discretionary sales surtaxes; providing an effective date.

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

Section 1. Subsection (6) of section 112.64, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section, to read:

112.64 Administration of funds; amortization of unfunded liability.—

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

578-02605-16

20161652c1

(6) (a) Notwithstanding any other provision of this part, the proceeds of a pension liability surtax imposed by a county pursuant to s. 212.055, which is levied for the purpose of funding or amortizing the unfunded liability of a defined benefit retirement plan or system, excluding the Florida Retirement System, shall be actuarially recognized, and the county shall apply the present value of the total projected proceeds of the surtax to reduce the unfunded liability or to amortize it as part of the county's annual required contribution, beginning with the fiscal year immediately following approval of the pension liability surtax. The unfunded liability amortization schedule must be adjusted beginning with the fiscal year immediately following approval of the pension liability surtax and amortized over a period of 30 years.

(b) The payroll of all employees in classifications covered by a closed retirement plan or system that receives funds from the pension liability surtax must be included in determining the unfunded liability amortization schedule for the closed plan, regardless of the plan in which the employees currently participate, and the payroll growth assumption must be adjusted to reflect the payroll of those employees when calculating the amortization of the unfunded liability.

Section 2. Subsection (9) is added to section 212.055, Florida Statutes, to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

578-02605-16

20161652c1

61 levy. Each enactment shall specify the types of counties
 62 authorized to levy; the rate or rates which may be imposed; the
 63 maximum length of time the surtax may be imposed, if any; the
 64 procedure which must be followed to secure voter approval, if
 65 required; the purpose for which the proceeds may be expended;
 66 and such other requirements as the Legislature may provide.
 67 Taxable transactions and administrative procedures shall be as
 68 provided in s. 212.054.

69 (9) PENSION LIABILITY SURTAX.-

70 (a) The governing body of a county may levy a pension
 71 liability surtax to fund underfunded defined benefit retirement
 72 plans or systems, pursuant to an ordinance conditioned to take
 73 effect upon approval by a majority vote of the electors of the
 74 county voting in a referendum, at a rate that may not exceed 0.5
 75 percent. The county may not impose a pension liability surtax
 76 unless the underfunded defined benefit retirement plan or system
 77 is below 80 percent of actuarial funding at the time the
 78 ordinance or referendum is passed. The most recent actuarial
 79 report submitted to the Department of Management Services
 80 pursuant to s. 112.63 must be used to establish the level of
 81 actuarial funding for purposes of determining eligibility to
 82 impose the surtax. The governing body of a county may only
 83 impose the surtax if:

84 1. The employees, including police officers and
 85 firefighters, who enter employment on or after the date that the
 86 local government meets the requirements for enacting the pension
 87 liability surtax, may not enroll in a defined benefit retirement
 88 plan or system that will receive the surtax proceeds.

89 2. The county currently levies a local government

578-02605-16

20161652c1

90 infrastructure surtax pursuant to subsection (2) which is
 91 scheduled to terminate and is not subject to renewal.

92 3. The pension liability surtax does not take effect until
 93 the local government infrastructure surtax described in
 94 subparagraph 2. is terminated.

95 (b) A referendum to adopt a pension liability surtax must
 96 meet the requirements of s. 101.161 and must include a brief and
 97 general description of the purposes for which the surtax
 98 proceeds will be used.

99 (c) Pursuant to s. 212.054(4), the proceeds of the surtax
 100 collected under this subsection, less an administrative fee that
 101 may be retained by the department, shall be distributed by the
 102 department to the local government. The local government shall
 103 distribute the proceeds it receives from the department, less an
 104 administrative fee not to exceed 2 percent of the surtax
 105 collected, to an eligible defined benefit retirement plan or
 106 system, except the Florida Retirement System. The ordinance
 107 providing for the imposition of the pension liability surtax
 108 must specify the method of determining the percentage of the
 109 proceeds, and the frequency of such payments, distributed to
 110 each eligible defined benefit retirement plan or system. The
 111 pension liability surtax proceeds may be used only to reduce or
 112 amortize the unfunded actuarial liability of the defined benefit
 113 retirement plan or system. A defined benefit retirement plan or
 114 system may no longer receive the surtax proceeds once the plan
 115 or system reaches or exceeds 100 percent of actuarial funding.
 116 If the local government makes advanced payments toward the
 117 unfunded liability of an underfunded defined benefit retirement
 118 plan or system which are secured by future revenues associated

578-02605-16

20161652c1

119 with the surtax, the local government may fully reimburse itself
120 from the surtax proceeds for such payments.

121 (d) Notwithstanding s. 212.054(5), a pension liability
122 surtax imposed pursuant to this subsection shall terminate for
123 any defined benefit retirement plan or system when the actuarial
124 funding level of that plan or system reaches or exceeds 100
125 percent.

126 (e) Notwithstanding any other provision of this section, a
127 county may not levy local option sales surtaxes authorized in
128 this subsection and subsections (2), (3), (4), and (5) in excess
129 of a combined rate of 1 percent.

130 Section 3. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Dorothy L. Hukill, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: January 27, 2016

I respectfully request that **Senate Bill # 1652**, relating to Discretionary Sales Surtaxes, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Rob Bradley".

Senator Rob Bradley
Florida Senate, District 7

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/18/16

Meeting Date

1652
Bill Number (if applicable)

Topic Surtax

Amendment Barcode (if applicable)

Name Davin Suggs

Job Title Fiscal Policy Director

Address 100 S Monroe

Phone (850) - 922 4300

Tallahassee FL 32301

City State Zip

Email dsuggs@fl-cities.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/14

Meeting Date

1652

Bill Number (if applicable)

Topic Surtax

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Senior Legislative Advocate

Address P O Box 1757

Phone 850 701 3621

Street

Tallahassee

FL

32302

City

State

Zip

Email ahughes@flcities.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16

Meeting Date

1652

Bill Number (if applicable)

Topic Discretionary Sales Tax

Amendment Barcode (if applicable)

Name Randy Wyse

Job Title President Jacksonville Assoc of Fire Fighters

Address 625 Stockton St. Street

Phone 904-384-1011

Jacksonville FL 32204 City State Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Jacksonville Assoc of Fire Fighters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/8/16

1652

Meeting Date

Bill Number (if applicable)

Topic **Discretionary Sales Tax**

Amendment Barcode (if applicable)

Name **James Tolley**

Job Title **President**

Address **1689 Mahan Center Blvd. , Suite B**

Phone **(321)-543-6796**

Street

Tallahassee

FL

32308

Email **tolley@mindspring.com**

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing **Florida Professional Firefighters**

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: SPB 7064

INTRODUCER: For consideration by the Finance and Tax Committee

SUBJECT: Corporate Income Tax

DATE: February 8, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Babin</u>	<u>Diez-Arguelles</u>	_____	FT Submitted as Committee Bill

I. Summary:

SPB 7064 updates Florida's Corporate Income Tax Code by adopting the Internal Revenue Code in effect on January 1, 2016.

The federal Consolidated Appropriations Act, 2016, grants extraordinary deductions for depreciation for the next five years. Similar to past treatment, the bill requires Florida taxpayers to spread the benefit of these deductions over a seven year period.

The federal Consolidated Appropriations Act, 2016, also increases the first-year expensing deduction limitation from \$25,000 to \$500,000 and makes the change permanent. The bill adopts this change for purposes of Florida's corporate income tax.

The federal Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 amends the Internal Revenue Code to change the tax return due dates for corporate returns. The bill makes corresponding changes to Florida's corporate income tax return filing dates and estimated payment due dates.

The Revenue Estimating Conference has determined that the bill will reduce General Revenue receipts by \$3.2 million in Fiscal Year 2015-2016, and by \$16.8 million in Fiscal Year 2016-2017, with an indeterminate recurring impact.

II. Present Situation:

Discussion of the present situation is included in the section-by-section analysis below.

III. Effect of Proposed Changes:

Sections 1 – 3, and 10

Present situation: Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida. The determination of taxable income for Florida

tax purposes begins with the taxable income determined for federal income tax purposes. This means that a corporation paying taxes in Florida receives the same treatment in Florida as is allowed in determining its federal taxable income.

Florida maintains its relationship with the federal taxable income determination 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 Internal Revenue Code allows a taxpayer to deduct the cost of capital assets by deducting a portion of the cost over the useful life of the property (depreciation).¹ Additionally, a taxpayer is allowed to treat a certain amount of the cost of capital assets as a business expense that can be deducted entirely in the year of purchase (expensing).² Until recently, the amount that could be expensed was limited to \$25,000.

The federal Consolidated Appropriations Act, 2016 (the Act),³ became law on December 18, 2015, and contained significant amendments to the Internal Revenue Code. Similar to federal legislation during the past several years,⁴ the Act grants an additional, first-year depreciation deduction (bonus depreciation) for the next five years. For the next three years, the bonus depreciation amount is 50 percent, and then the percentage is reduced to 40 percent and 30 percent in the last two years, respectively. The Act also permanently increases the expensing deduction from \$25,000 to \$500,000.

Proposed Change: SPB 7064 adopts the Internal Revenue Code in effect on January 1, 2016. The bill does not adopt the bonus depreciation deductions provided by the Act. Instead, the bill requires taxpayers to spread the effect of these deductions over seven taxable years. The bill accomplishes this by requiring taxpayers to add-back the bonus depreciation deduction and then subtract from income one-seventh (1/7) of these deductions for the current taxable year and the following six taxable years. This mechanism was used to address the impacts of similar federal legislation in 2009, 2011, 2013, and 2015.⁵

SPB 7064 adopts the permanent increase in the expensing limitation from \$25,000 to \$500,000.

SPB 7064 makes these changes retroactive to January 1, 2016.

SPB 7064 grants the Department of Revenue emergency rulemaking authority to implement the provisions of the bill.

¹ See generally ss. 167 and 168, Internal Revenue Code.

² See generally s. 179, Internal Revenue Code.

³ Pub. Law No. 114-113, Division Q, s. 143, H.R. 2029, 114th Cong. (December 18, 2015).

⁴ The Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, and the Tax Increase Prevention Act of 2014.

⁵ Chapters 2009-132, 2011-229, 2013-40, and 2015-35, Laws of Fla.

Sections 4 – 9

Present situation: Under Florida law, the due dates to file tax returns related to corporate income tax are tied to the due dates of the related federal return. Florida corporations must file income tax returns on or before the first day of the 4th month following the close of the taxable year or the 15th day following the federal due date.⁶

When a Florida corporation is granted an extension of time to file its federal return – usually six months – the taxpayer may file an extension of time to file its Florida return;⁷ if granted, the extended Florida due date will be the 15th day after the expiration of the federal extension, or until the expiration of six months from the original due date, whichever occurs first.⁸

Florida requires corporate income taxpayers to make estimated payments of tax throughout the taxable year. The taxpayer must file a declaration of estimated tax before the 1st day of the 5th month of each tax year.⁹ Taxpayers then typically make estimated payments of tax before the first day of the 5th, 7th, and 10th months of the taxable year, and the final estimated payment is due before the 1st day of the next taxable year.¹⁰ The first estimated payment – due before the first day of the 5th month of the taxable year – is timed so that it occurs after the taxpayer's tax return due date for the prior taxable year, which is the 4th month. Estimated payment rules allow the taxpayer to use the prior taxable year's tax liability to calculate the next taxable year's estimated payments.

On July 31, 2015, the federal government passed the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015.¹¹ This federal legislation moves the filing dates for most federal corporate income taxpayers to one month later than is currently required. A small group of corporate taxpayers (those with a taxable year ending on June 30) continue using their current filing date until 2026, at which time their filing date will also move one month later.

The federal legislation also adjusts the normal federal six month extension for the next 10 years. Under this adjustment, calendar year corporate taxpayers (the majority of corporate taxpayers in Florida) will receive a five month extension. Taxpayers with a taxable year ending on June 30 receive a seven month extension. All other taxpayers continue with six month extensions, and after 2026, all extensions will return to six months.

Proposed Change: SPB 7064 amends the due dates for Florida corporate income tax returns to correspond with the changes in due dates for the federal returns and the temporary changes in federal extension periods. The bill also extends the first estimated payment for corporate taxpayers by one month to accommodate the tax return due date change.

⁶ Section 220.222(1), F.S. Some partnerships are also required to file informational returns. These returns are due on or before the first day of the 5th month after the close of the taxable year.

⁷ If a taxpayer extends the time to file its Florida return, the taxpayer must file a tentative tax return and make a tentative tax payment pursuant to s. 220.32, F.S.

⁸ Section 220.222(2), F.S.

⁹ Section 220.241, F.S. The time for filing a declaration is delayed for certain taxpayers. *See id.* A declaration is not required if the taxpayer reasonably expects to pay less than \$2,500 or less. Section 220.24, F.S.

¹⁰ Section 220.33(1), F.S.

¹¹ Pub. Law No. 114-41, H.R. 3236, 114th Cong. (July 31, 2015).

The changes to tax return due dates apply for taxable years beginning on or after January 1, 2016, and the changes to estimated payments apply to estimated payments for taxable years beginning on or after January 1, 2017.

SPB 7064 is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that the provisions of SPB 7064 that adopt the Internal Revenue Code and require taxpayers to spread the benefit of the bonus depreciation deductions will reduce General Revenue receipts by \$3.2 million in Fiscal Year 2015-2016, and by \$3.2 million in Fiscal Year 2016-2017, with a negative, recurring impact of \$1.5 million. The reduction in General Revenue receipts is caused by the adoption of the increased expensing limitation.

The provisions of SPB 7064 that move the due dates for tax returns and the first estimated payment will reduce General Revenue receipts by \$13.6 million in Fiscal Year 2016-2017, with an indeterminate recurring impact.

B. Private Sector Impact:

By adopting recent changes to the Internal Revenue Code, Florida provides ease of administration for Florida corporate taxpayers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 220.03, 220.13, 220.222, 220.241, 220.33, and 220.34.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

FOR CONSIDERATION By the Committee on Finance and Tax

593-02778D-16

20167064pb

1 A bill to be entitled
 2 An act relating to the corporate income tax; amending
 3 s. 220.03, F.S.; revising the term "Internal Revenue
 4 Code"; revising the applicable version of the Internal
 5 Revenue Code and federal income tax code statutes;
 6 amending s. 220.13, F.S.; revising the term "adjusted
 7 federal income" as it relates to adjustments related
 8 to federal acts; providing for retroactive application
 9 of amendments to ss. 220.03 and 220.13, F.S.; amending
 10 s. 220.222, F.S.; amending due dates for partnership
 11 information returns and corporate tax returns;
 12 providing applicability; amending s. 220.241, F.S.;
 13 amending due dates to file a declaration of estimated
 14 corporate income tax; amending s. 220.33, F.S.;
 15 amending the due date of estimated payments of
 16 corporate income tax; amending s. 220.34, F.S.;
 17 amending the dates used to calculate interest and
 18 penalties on underpayments of estimated corporate
 19 income tax; providing applicability for amendments to
 20 ss. 220.241, 220.33, and 220.34, F.S.; authorizing the
 21 Department of Revenue to adopt emergency rules;
 22 providing an effective date.

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

25
 26 Section 1. Paragraph (n) of subsection (1) and paragraph
 27 (c) of subsection (2) of section 220.03, Florida Statutes, are
 28 amended to read:

29 220.03 Definitions.—

30 (1) SPECIFIC TERMS.—When used in this code, and when not
 31 otherwise distinctly expressed or manifestly incompatible with
 32 the intent thereof, the following terms shall have the following

Page 1 of 9

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593-02778D-16

20167064pb

33 meanings:

34 (n) "Internal Revenue Code" means the United States
 35 Internal Revenue Code of 1986, as amended and in effect on
 36 January 1, 2016 ~~2015~~, except as provided in subsection (3).

37 (2) DEFINITIONAL RULES.—When used in this code and neither
 38 otherwise distinctly expressed nor manifestly incompatible with
 39 the intent thereof:

40 (c) Any term used in this code has the same meaning as when
 41 used in a comparable context in the Internal Revenue Code and
 42 other statutes of the United States relating to federal income
 43 taxes, as such code and statutes are in effect on January 1,
 44 2016 ~~2015~~. However, if subsection (3) is implemented, the
 45 meaning of a term shall be taken at the time the term is applied
 46 under this code.

47 Section 2. Paragraph (e) of subsection (1) of section
 48 220.13, Florida Statutes, is amended to read:

49 220.13 "Adjusted federal income" defined.—

50 (1) The term "adjusted federal income" means an amount
 51 equal to the taxpayer's taxable income as defined in subsection
 52 (2), or such taxable income of more than one taxpayer as
 53 provided in s. 220.131, for the taxable year, adjusted as
 54 follows:

55 (e) *Adjustments related to federal acts.*—Taxpayers shall be
 56 required to make the adjustments prescribed in this paragraph
 57 for Florida tax purposes with respect to certain tax benefits
 58 received pursuant to the Economic Stimulus Act of 2008, the
 59 American Recovery and Reinvestment Act of 2009, the Small
 60 Business Jobs Act of 2010, the Tax Relief, Unemployment
 61 Insurance Reauthorization, and Job Creation Act of 2010, the

Page 2 of 9

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593-02778D-16

20167064pb

62 American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase
63 Prevention Act of 2014, and the Consolidated Appropriations Act,
64 2016.

65 1. There shall be added to such taxable income an amount
66 equal to 100 percent of any amount deducted for federal income
67 tax purposes as bonus depreciation for the taxable year pursuant
68 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
69 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
70 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.
71 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L.
72 No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113,
73 for property placed in service after December 31, 2007, and
74 before January 1, 2021 2015. For the taxable year and for each
75 of the 6 subsequent taxable years, there shall be subtracted
76 from such taxable income an amount equal to one-seventh of the
77 amount by which taxable income was increased pursuant to this
78 subparagraph, notwithstanding any sale or other disposition of
79 the property that is the subject of the adjustments and
80 regardless of whether such property remains in service in the
81 hands of the taxpayer.

82 2. There shall be added to such taxable income an amount
83 equal to 100 percent of any amount in excess of \$128,000
84 deducted for federal income tax purposes for the taxable year
85 pursuant to s. 179 of the Internal Revenue Code of 1986, as
86 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.
87 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.
88 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.
89 No. 113-295, for taxable years beginning after December 31,
90 2007, and before January 1, 2015. For the taxable year and for

Page 3 of 9

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593-02778D-16

20167064pb

91 each of the 6 subsequent taxable years, there shall be
92 subtracted from such taxable income one-seventh of the amount by
93 which taxable income was increased pursuant to this
94 subparagraph, notwithstanding any sale or other disposition of
95 the property that is the subject of the adjustments and
96 regardless of whether such property remains in service in the
97 hands of the taxpayer.

98 3. There shall be added to such taxable income an amount
99 equal to the amount of deferred income not included in such
100 taxable income pursuant to s. 108(i)(1) of the Internal Revenue
101 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There
102 shall be subtracted from such taxable income an amount equal to
103 the amount of deferred income included in such taxable income
104 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,
105 as amended by s. 1231 of Pub. L. No. 111-5.

106 4. Subtractions available under this paragraph may be
107 transferred to the surviving or acquiring entity following a
108 merger or acquisition and used in the same manner and with the
109 same limitations as specified by this paragraph.

110 5. The additions and subtractions specified in this
111 paragraph are intended to adjust taxable income for Florida tax
112 purposes, and, notwithstanding any other provision of this code,
113 such additions and subtractions shall be permitted to change a
114 taxpayer's net operating loss for Florida tax purposes.

115 Section 3. The amendments to ss. 220.03 and 220.13, Florida
116 Statutes, made by this act apply retroactively to January 1,
117 2016.

118 Section 4. Section 220.222, Florida Statutes, is amended to
119 read:

Page 4 of 9

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593-02778D-16

20167064pb

120 220.222 Returns; time and place for filing.-
 121 (1) (a) Returns required by this code shall be filed with
 122 the office of the department in Leon County or at such other
 123 place as the department may by regulation prescribe. All returns
 124 required for a DISC (Domestic International Sales Corporation)
 125 under paragraph 6011(c)(2) of the Internal Revenue Code shall be
 126 filed on or before the 1st day of the 10th month following the
 127 close of the taxable year; all partnership information returns
 128 shall be filed on or before the 1st day of the 4th ~~5th~~ month
 129 following the close of the taxable year; and all other returns
 130 shall be filed on or before the 1st day of the 5th ~~4th~~ month
 131 following the close of the taxable year or the 15th day
 132 following the due date, without extension, for the filing of the
 133 related federal return for the taxable year, unless under
 134 subsection (2) one or more extensions of time, not to exceed 6
 135 months in the aggregate, for any such filing is granted.
 136 (b) Notwithstanding paragraph (a), for taxable years
 137 beginning before January 1, 2026, returns of taxpayers with a
 138 taxable year ending on June 30 shall be filed on or before the
 139 1st day of the 4th month following the close of the taxable year
 140 or the 15th day after the due date, without extension, for the
 141 filing of the related federal return for the taxable year,
 142 unless under subsection (2) one or more extensions of time for
 143 any such filing is granted.
 144 (2) (a) When a taxpayer has been granted an extension or
 145 extensions of time within which to file its federal income tax
 146 return for any taxable year, and if the requirements of s.
 147 220.32 are met, the filing of a request for such extension or
 148 extensions with the department shall automatically extend the

Page 5 of 9

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593-02778D-16

20167064pb

149 due date of the return required under this code until ~~15 days~~
 150 ~~after the expiration of the federal extension or until the~~
 151 ~~expiration of 6 months from the original due date, whichever~~
 152 ~~first occurs.~~
 153 (b) The department may grant an extension or extensions of
 154 time for the filing of any return required under this code upon
 155 receiving a prior request therefor if good cause for an
 156 extension is shown. However, the aggregate extensions of time
 157 under paragraphs (a) and (b) shall not exceed 6 months. No
 158 extension granted under this paragraph shall be valid unless the
 159 taxpayer complies with the requirements of s. 220.32.
 160 (c) For purposes of this subsection, a taxpayer is not in
 161 compliance with the requirements of s. 220.32 if the taxpayer
 162 underpays the required payment by more than the greater of
 163 \$2,000 or 30 percent of the tax shown on the return when filed.
 164 (d) For taxable years beginning before January 1, 2026, the
 165 6-month period in paragraphs (a) and (b) shall be 7 months for
 166 taxpayers with a taxable year ending on June 30, and shall be 5
 167 months for taxpayers with a taxable year ending on December 31.
 168 Section 5. The amendments to s. 220.222, Florida Statutes,
 169 made by this act apply to taxable years beginning on or after
 170 January 1, 2016.
 171 Section 6. Section 220.241, Florida Statutes, is amended to
 172 read:
 173 220.241 Declaration; time for filing.-
 174 (1) A declaration of estimated tax under this code shall be
 175 filed before the 1st day of the 6th ~~5th~~ month of each taxable
 176 year, except that if the minimum tax requirement of s. 220.24(1)
 177 is first met:

Page 6 of 9

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593-02778D-16

20167064pb

178 (a)(1) After the 3rd month and before the 6th month of the
179 taxable year, the declaration shall be filed before the 1st day
180 of the 7th month;

181 (b)(2) After the 5th month and before the 9th month of the
182 taxable year, the declaration shall be filed before the 1st day
183 of the 10th month; or

184 (c)(3) After the 8th month and before the 12th month of the
185 taxable year, the declaration shall be filed for the taxable
186 year before the 1st day of the succeeding taxable year.

187 (2) Notwithstanding subsection (1), for taxable years
188 beginning before January 1, 2026, taxpayers with a taxable year
189 ending on June 30 shall file declarations before the 1st day of
190 the 5th month of each taxable year, unless paragraph (1)(a),
191 (1)(b), or (1)(c) applies.

192 Section 7. Subsection (1) of section 220.33, Florida
193 Statutes, is amended to read:

194 220.33 Payments of estimated tax.—A taxpayer required to
195 file a declaration of estimated tax pursuant to s. 220.24 shall
196 pay such estimated tax as follows:

197 (1) If the declaration is required to be filed before the
198 1st day of the 6th ~~5th~~ month of the taxable year, the estimated
199 tax shall be paid in four equal installments. The first
200 installment shall be paid at the time of the required filing of
201 the declaration; the second and third installments shall be paid
202 before the 1st day of the 7th month and before the 1st day of
203 the 10th month of the taxable year, respectively; and the fourth
204 installment shall be paid before the 1st day of the next taxable
205 year.

206 Section 8. Paragraph (c) of subsection (2) of section

Page 7 of 9

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593-02778D-16

20167064pb

207 220.34, Florida Statutes, is amended to read:

208 220.34 Special rules relating to estimated tax.—

209 (2) No interest or penalty shall be due or paid with
210 respect to a failure to pay estimated taxes except the
211 following:

212 (c) The period of the underpayment for which interest and
213 penalties apply shall commence on the date the installment was
214 required to be paid, determined without regard to any extensions
215 of time, and shall terminate on the earlier of the following
216 dates:

217 1. The first day of the 5th ~~fourth~~ month following the
218 close of the taxable year; ~~or~~

219 2. For taxable years beginning before January 1, 2026, for
220 taxpayers with a taxable year ending on June 30, the first day
221 of the 4th month following the close of the taxable year; or

222 3. ~~2.~~ With respect to any portion of the underpayment, the
223 date on which such portion is paid.

224 For purposes of this paragraph, a payment of estimated tax on
225 any installment date shall be considered a payment of any
226 previous underpayment only to the extent such payment exceeds
227 the amount of the installment determined under subparagraph
228 (b)1. for such installment date.

229 Section 9. The amendments to ss. 220.241, 220.33, and
230 220.34, Florida Statutes, made by this act apply to estimated
231 payments for taxable years beginning on or after January 1,
232 2017.

233 Section 10. (1) The Department of Revenue is authorized,
234 and all conditions are deemed to be met, to adopt emergency
235

Page 8 of 9

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593-02778D-16

20167064pb

236 rules pursuant to s. 120.54(4), Florida Statutes, for the
237 purpose of implementing the amendments made by this act to ss.
238 220.03 and 220.13, Florida Statutes.

239 (2) Notwithstanding any other provision of law, emergency
240 rules adopted pursuant to subsection (1) are effective for 6
241 months after adoption and may be renewed during the pendency of
242 procedures to adopt permanent rules addressing the subject of
243 the emergency rules.

244 (3) This section expires January 1, 2020.

245 Section 11. This act shall take effect upon becoming a law.

CourtSmart Tag Report

Room: SB 401

Case:

Type:

Caption: Senate Finance and Tax Committee Judge:

Started: 2/8/2016 4:03:35 PM

Ends: 2/8/2016 5:09:38 PM Length: 01:06:04

4:03:36 PM Meeting called to order
4:03:42 PM Sen. Hukill (Chair)
4:04:16 PM Tab 4 - SJR 1194
4:04:32 PM Sen. Negron
4:05:35 PM AM 230038
4:05:46 PM Sen. Negron
4:06:50 PM AM 230038 adopted
4:06:52 PM SJR 1194 (cont.)
4:07:01 PM Ken Kopczynski, Lobbyist, Florida Police Benevolent Association (waives in support)
4:07:11 PM Jim Tolley, President, Florida Professional Firefighters (waives in support)
4:07:21 PM Sen. Soto
4:08:25 PM Roll Call - CS/SJR 1194
4:08:32 PM Tab 2 - CS/SB 802
4:08:44 PM Matthew Hunter, Senator Benacquisto's Legislative Assistant
4:09:35 PM Jim Cordero, Director of Governmental Affairs, Asphalt Contractors Association of Florida (waives in support)
4:09:42 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
4:10:26 PM Roll Call - CS/SB 802
4:10:31 PM Tab 5 - CS/SB 1264
4:10:44 PM Sen. Simpson
4:11:17 PM Adam Basford, Legislative Affairs Director, Florida Farm Bureau (waives in support)
4:11:28 PM Jim Spratt, Florida Nursery Growers and Landscape Association (waives in support)
4:11:41 PM Butch Calhoun, Florida Fruit and Vegetable Association (waives in support)
4:11:43 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
4:12:24 PM Roll Call - CS/SB 1264
4:12:27 PM Sen. Abruzzo (Chair)
4:12:34 PM Tab 6 - SB 1272
4:12:39 PM Sen. Hukill
4:14:00 PM AM 669104 to be replaced with SA 832536
4:14:27 PM SA 832536 adopted
4:15:05 PM SB 1272 (cont.)
4:15:07 PM Sen. Soto
4:15:34 PM Sen. Hukill
4:15:49 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
4:15:54 PM Lee Killinger, Director of Public Policy and Governmental Affairs, Mosaic (waives in support)
4:15:58 PM Sean Stafford, Florida Crystals (waives in support)
4:16:03 PM Jim Spratt, Florida Forestry Association (waives in support)
4:16:07 PM Jonathan Rees, Deputy Director, Legislative Affairs, Florida Dept. of Agriculture and Consumer Services (waives in support)
4:16:15 PM Sen. Soto
4:16:52 PM Roll Call - CS/SB 1272
4:17:05 PM Sen. Hukill (Chair)
4:17:09 PM Tab 8 - SPB 7064
4:17:28 PM Robert Babin, Attorney, Senate Finance and Tax Committee
4:20:17 PM Sen. Hukill
4:20:27 PM R. Babin
4:21:03 PM Roll Call - SPB 7064
4:21:37 PM Tab 1 - SB 324
4:21:54 PM Sen. Diaz de la Portilla's motion to be voting in the affirmative for SB 802, SJR 1194, SB 1264, and SB 1272
4:22:17 PM Jim Browne, Senator Legg's Legislative Assistant
4:23:00 PM AM 806856 to be replaced with SA 737306

4:23:08 PM Sen. Simpson
4:24:29 PM Sen. Hukill
4:24:48 PM Sen. Simpson
4:27:15 PM Edgar Fernandez, American Water Works Association (waives in support of AM 737306)
4:27:22 PM David Childs, Counsel, Florida Water Environment Association Utility Council (waives in support of AM 737306)
4:27:42 PM Sen. Hukill
4:28:21 PM SA 737306 adopted
4:28:28 PM AM 821108 withdrawn
4:28:44 PM SB 324 (cont.)
4:29:01 PM Roll Call - CS/SB 324
4:29:22 PM Tab 3 - SB 844
4:29:46 PM Sen. Flores
4:30:36 PM Sen. Soto
4:30:49 PM Sen. Flores
4:31:33 PM AM 388912
4:31:38 PM Sen. Flores
4:32:41 PM Sen. Abruzzo
4:32:56 PM Sen. Flores
4:33:38 PM Sen. Abruzzo
4:33:43 PM Sen. Flores
4:33:59 PM Lisa Waters, CEO, Florida Airports Council (waives in support of AM 388912)
4:34:08 PM George Stokus, Airport Manager, Martin County Airport (waives in support of AM 388912)
4:34:15 PM Michael Stewart, Director of External Affairs, Florida Airports Council
4:37:22 PM Allan Penska, CEO, Gainesville Regional Airport
4:39:07 PM Parker McClellan, Executive Director of Northwest Florida Beaches International Airport, Florida Airports Council (waives in support of AM 388912)
4:39:13 PM Roy Sieger, Airport Director, Flagler Executive Airport (waives in support of AM 388912)
4:39:21 PM John Johnston, Florida Airports Council (waives in support of AM 388912)
4:39:42 PM Sen. Abruzzo
4:42:17 PM Sen. Flores
4:45:58 PM AM 388912 adopted
4:46:00 PM SB 844 (cont.)
4:46:10 PM Sen. Soto
4:46:34 PM Sen. Flores
4:46:40 PM Sen. Altman
4:47:13 PM David Daniel, United Airlines (waives in support)
4:47:18 PM Fred Baggett, Airlines for America (waives in support)
4:47:36 PM Jen Gaviria, Delta Airlines (waives in support)
4:47:51 PM Sen. Abruzzo
4:51:00 PM Sen. Simpson
4:51:59 PM Sen. Abruzzo
4:52:16 PM Sen. Flores
4:54:13 PM Sen. Abruzzo
4:54:51 PM Sen. Flores
4:56:18 PM Sen. Soto
4:56:51 PM Sen. Diaz de la Portilla
4:57:36 PM Sen. Flores
4:59:45 PM Roll Call - CS/SB 844
5:00:03 PM Tab 7 - CS/SB 1652
5:00:14 PM Sen. Bradley
5:01:19 PM Sen. Soto
5:01:25 PM Sen. Bradley
5:01:46 PM AM 957874
5:01:57 PM Sen. Bradley
5:02:23 PM AM 957874 adopted
5:02:26 PM AM 532318
5:02:32 PM Sen. Bradley
5:03:04 PM AM 532318 adopted
5:03:07 PM AM 389704
5:03:13 PM Sen. Bradley
5:03:45 PM AM 389704 adopted

5:03:51 PM AM 324298
5:03:52 PM Sen. Bradley
5:04:21 PM Sen. Diaz de la Portilla
5:04:27 PM Sen. Bradley
5:05:18 PM Sen. Diaz de la Portilla
5:05:27 PM Sen. Bradley
5:06:06 PM Sen. Soto
5:06:24 PM Sen. Bradley
5:07:14 PM AM 324298 adopted
5:07:20 PM CS/SB 1652 (cont.)
5:07:28 PM Davin Suggs, Fiscal Policy Director, Florida Association of Counties (waives in support)
5:07:36 PM Amber Hughes, Senior Legislative Advocate, Florida League of Cities (waives in support)
5:07:45 PM Randy Wyse, President, Jacksonville Association of Fire Fighters (waives in support)
5:07:51 PM James Tolley, President, Florida Professional Firefighters (waives in support)
5:08:11 PM Sen. Hukill
5:08:23 PM Sen. Bradley
5:08:46 PM Roll Call - CS/CS/SB 1652
5:09:10 PM Sen. Flores' motion to be voting in the affirmative for SB 802, SJR 1194, SB 1264, SB 1272, and SPB
7064
5:09:29 PM Meeting adjourned