

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 579 Natural Gas Motor Fuel

**SPONSOR(S):** Regulatory Affairs Committee; Energy & Utilities Subcommittee; Ray and others

**TIED BILLS:** None. **IDEN./SIM. BILLS:** CS/SB 560

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	13 Y, 0 N, As CS	Whittier	Collins
2) Finance & Tax Subcommittee	15 Y, 0 N	Flieger	Langston
3) Appropriations Committee	23 Y, 0 N	White	Leznoff
4) Regulatory Affairs Committee	14 Y, 0 N, As CS	Whittier	Hamon

### SUMMARY ANALYSIS

The bill creates Part V of Chapter 206, F.S., consisting of ss. 206.9951-206.998, F.S., and entitles it "Natural Gas Fuel." It repeals the annual decal fee program for motor vehicles powered by alternative fuels effective January 1, 2014, and establishes a fuel tax structure for natural gas used as a motor fuel similar to that for diesel fuel beginning January 1, 2019, thereby exempting natural gas fuel from fuel taxes for five years. The bill also exempts natural gas fuel from state sales and use taxes and expands the definition of "energy efficiency improvement" to include "installation of systems for natural gas fuel" under uses authorized by the Local Government Infrastructure Surtax. The bill directs the Office of Program Policy Analysis and Government Accountability to complete and submit a report regarding the taxation of natural gas fuel used to power motor vehicles to the President of the Senate and the Speaker of the House by December 1, 2017.

The bill may result in increased savings for drivers utilizing vehicles powered by natural gas fuel, an increase in conversions of vehicle fleets from being powered by traditional fuels to natural gas fuel, and an increase in natural gas refueling infrastructure across the state.

**On April 5, 2013, the Revenue Estimating Conference estimated that in FY 2013-14, there will be an insignificant negative impact on revenues to the General Revenue Fund, a (\$0.3) million impact to state trust funds, and an insignificant negative impact to local governments. However, in FY 2018-19, net revenue impacts will become more positive on a permanent basis as the new fuel tax system created by the bill takes effect. Consequently, the recurring revenue impacts, expressed in FY 2013-14 dollars reflecting the longer-run perspective, will be \$0.1 million to the General Revenue Fund, (\$0.3) million to state trust funds, and \$0.2 million to local government.**

The effective date of this bill is January 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Natural Gas**

During the past several years, exploration has uncovered a supply of natural gas in the United States which has resulted in a reduction in the price of natural gas and an increased interest in natural gas powered vehicles and fueling stations. Similar to the dilemma facing electric vehicles, there is much discussion surrounding whether to first increase and/or convert fleets to be powered by natural gas in Florida or to begin with expanding the natural gas fueling infrastructure statewide. Currently, there are 32 natural gas fueling stations in Florida.<sup>1</sup>

When compared using equivalent units of measure, natural gas is less expensive than gasoline or diesel fuel. The U.S. Department of Energy reports that in the fall of 2012, the national average price for gasoline was \$3.82, the price for diesel was \$4.13, and for a gasoline gallon equivalent of compressed natural gas (CNG) was \$2.12.<sup>2</sup> Although initial savings in fuel costs may be offset by the cost of a natural gas vehicle over a gasoline or diesel-powered vehicle, cost savings may be experienced after a few years.

In a study<sup>3</sup> prepared for the Florida Natural Gas Vehicle Coalition (FNGVC), the following was noted:

The incremental cost of a standard passenger vehicle powered by CNG, compared to a standard passenger vehicle powered by gasoline, ranges from \$7,000 to \$18,500. Assuming each passenger vehicle consumes 531 gallons per year, and applying a gas-CNG price difference of \$1.74, the payback period ranges from 7.6 years to 20 years. In contrast, the incremental cost of a truck powered by CNG over a diesel-powered truck is \$76,100. Assuming each vehicle consumes 11,706 gallons per year and assuming a price difference of \$1.91, the payback period for conversion of a diesel-powered truck to a CNG-powered truck is only 3.4 years. Further, reduced engine wear and extended service intervals also reduce maintenance costs for CNG-powered vehicles.<sup>4</sup>

Natural gas is touted as the cleanest of the fossil fuels. The Natural Gas Supply Association points out that, "Pollutants emitted in the United States, particularly from the combustion of fossil fuels, have led to the development of many pressing environmental problems. Natural gas, emitting fewer harmful chemicals into the atmosphere than other fossil fuels, can help to mitigate some of these environmental issues." These concerns include:

- Greenhouse Gas Emissions;
- Smog, Air Quality and Acid Rain;
- Industrial and Electric Generation Emissions; and
- Pollution from the Transportation Sector.<sup>5</sup>

According to the FNGVC, the following are benefits associated with the use of natural gas for fleet trucks:

---

<sup>1</sup> Correspondence from the Florida Natural Gas Association, March 1, 2013.

<sup>2</sup> *Clean Cities Alternative Fuel Price Report*, U.S. Department of Energy, October 2012, p. 3.

<sup>3</sup> *Economic Impact of Incentives to Facilitate Compressed Natural Gas Vehicles in Florida*, by Fishkind & Associates, Inc., August 1, 2012.

<sup>4</sup> *Id.*, pp. 17-18.

<sup>5</sup> Naturalgas.org website: <http://www.naturalgas.org/environment/naturalgas.asp>.

- Natural gas vehicles can save a company 30-50 percent of its fuel costs.
- Central fuel and maintenance make fleets highly conducive to CNG fueling infrastructure.
- Although Florida currently has relatively few natural gas fueling stations in place, several companies offer no-cost or low-cost options for construction and maintenance of such infrastructure.
- Maintenance on a natural gas vehicle is no more problematic and often easier than traditional diesel trucks.
- The cost of converting to CNG is decreasing. In addition, such costs are offset by savings in direct fuel costs and possible financial incentives for the purchase of natural gas vehicles.<sup>6</sup>

The FNGVC study recommends providing incentives to utilize CNG-powered truck fleets, thereby creating a demand for the re-fueling stations and “producing significant stimulation of Florida’s economy.”

### **State Gasoline, Diesel, and Alternative Fuel Taxes**

#### *Motor Fuel*

Section 206.01(9), F.S., defines “motor fuel” or “fuel” to mean “all gasoline products or any product blended with gasoline or any fuel placed in the storage supply tank of a gasoline-powered motor vehicle.” Section 206.41(1), F.S., provides for the following taxes on motor fuel:

- An excise or license tax of 2 cents per net gallon of motor fuel, designated as the “constitutional fuel tax.”
- An additional 1 cent per net gallon, designated as the “county fuel tax.”
- An additional 1 cent per net gallon, designated as the “municipal fuel tax.”
- An additional tax of 1 cent per net gallon may be imposed by each county, designated as the “ninth-cent fuel tax.”
- An additional tax of between 1 and 11 cents per net gallon may be imposed by each county, designated as the “local option fuel tax.”
- An additional tax per net gallon of motor fuel is imposed by each county, designated as the State Comprehensive Enhanced Transportation System Tax (“SCETS”), at a rate determined as specified in paragraph (f) of the subsection.
- An additional tax per net gallon is imposed “on the privilege of selling motor fuel,” designated as the “fuel sales tax,” at a rate determined as specified in paragraph (g) of the subsection.

The SCETS tax rate on motor fuel for 2013 is 5.9 cents and the fuel sales tax rate on motor fuel for 2013 is 12.9 cents.<sup>7</sup>

#### *Diesel Fuel*

Section 206.86(1), F.S., defines “diesel fuel” to mean “all petroleum distillates commonly known as diesel #2, biodiesel, or any other product blended with diesel or any product placed into the storage supply tank of a diesel-powered motor vehicle.” Section 206.87(1), F.S., provides for the following taxes on diesel fuel:

- An excise tax of 4 cents upon each net gallon of diesel fuel, except for alternative fuels which are subject to the fee imposed by s. 206.877, F.S.
- An additional 1 cent per net gallon by each county, designated as the “ninth-cent fuel tax.”
- An additional 6 cents per net gallon by each county, designated as the “local option fuel tax.”
- An additional tax per net gallon by each county, designated as the State Comprehensive Enhanced Transportation System Tax (SCETS), at a rate determined as specified in paragraph (d) of the subsection.

<sup>6</sup> FNGVC website: <http://www.fuelforjobs.com/wp-content/uploads/2012/03/Executive-Summary-FINAL1.pdf>, p. 6.

<sup>7</sup> Florida Department of Revenue website: [http://dor.myflorida.com/dor/tips/pdf/12b05-02\\_chart.pdf](http://dor.myflorida.com/dor/tips/pdf/12b05-02_chart.pdf), 2013 Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates, p. 2.

- An additional tax per net gallon “on the privilege of selling diesel fuel,” designated as the “fuel sales tax,” at a rate determined as specified in paragraph (e) of the subsection.

The SCETS Tax rate on diesel for 2013 is 7.1 cents and the fuel sales tax rate on diesel for 2013 is 12.9 cents.<sup>8</sup>

Section 212.0501(5), F.S., provides that diesel fuel upon which the fuel taxes pursuant to ch. 206, F.S., have been paid is exempt from the tax on sales, use, and other transactions imposed by ch. 212, F.S.

#### *Alternative Fuel*

Section 206.86(4), F.S., defines “alternative fuel” to mean “any liquefied petroleum gas product or compressed natural gas product or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas or compressed natural gas.” Section 206.86(5), F.S., defines “natural gasoline” as “a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel.”

Section 206.877(1)(a), F.S., requires owners or operators of motor vehicles licensed in this state which are powered by alternative fuels to pay, in lieu of the excise tax on diesel fuel (s. 206.87(1)(a)-(d), F.S.), an annual decal fee on each such motor vehicle in accordance with the rate schedule specified in that paragraph.

The Department of Revenue (DOR) issues an annual decal to be attached to the upper right corner of the front windshield on the motor vehicle for which the decal is issued. It is unlawful to operate a vehicle that is required to have this decal unless the vehicle is titled outside the state. Each sale of alternative fuel placed in a motor vehicle displaying a decal must be documented on an invoice that includes the decal number, the motor vehicle license number, and the number of gallons placed into the motor vehicle. Any person who puts or causes to be put liquefied petroleum gas or compressed natural gas into a motor vehicle required to have a decal is guilty of a first degree misdemeanor unless the vehicle has the required attached decal. A state or local governmental agency is not required to obtain a decal and pay the annual decal fee for a motor vehicle powered by alternative fuel which it operates.<sup>9</sup> The taxes imposed on diesel fuel under s. 206.87, F.S., apply to purchases of alternative fuels by operators of vehicles licensed in other states and other vehicles that do not have the proper decal.

The sale of alternative fuel, as defined in s. 206.86(4), F.S., is also subject to sales and use tax imposed under ch. 212, F.S.<sup>10</sup>

Section 206.89, F.S., provides that a person may not act as a retailer of alternative fuel unless he or she holds a valid retailer of alternative fuel license issued by DOR, and any person acting as such who does not hold a license must pay a penalty of 25 percent of the tax assessed on the total purchases. A filing fee of \$5 and a bond is required at the time of filing an application for a license. Every person who operates as a retailer of alternative fuel, except those licensed under ch. 206, F.S., including a state agency, federal agency, municipality, county, or special district, must report monthly to DOR and pay tax on all fuel purchases.

The revenues from the state alternative fuel fees imposed by s. 206.877, F.S., are deposited into the State Alternative Fuel User Fee Clearing Trust Fund. After deducting specified service charges, the proceeds from state alternative fuel fees are distributed as follows:

- One-half of the proceeds shall be transferred to the State Transportation Trust Fund.

<sup>8</sup> Florida Department of Revenue website: [http://dor.myflorida.com/dor/tips/pdf/12b05-02\\_chart.pdf](http://dor.myflorida.com/dor/tips/pdf/12b05-02_chart.pdf), 2013 Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates, p. 2.

<sup>9</sup> Section 206.877, F.S.

<sup>10</sup> Rule 12A-1.059, F.A.C.

- 50 percent of the remainder shall be transferred to the State Board of Administration for distribution in accordance with the Florida Constitution.
- 25 percent of the remainder shall be transferred to the Revenue Sharing Trust Fund for Municipalities.
- 25 percent of the remainder shall be distributed in accordance with s. 206.60(1), F.S. (to the counties for specified public transportation purposes).<sup>11</sup>

The revenues from the local alternative fuel fees imposed in lieu of s. 206.87(1)(b) or (c), F.S., are to be deposited into the Local Alternative Fuel User Fee Clearing Trust Fund. After deducting specified service charges, the proceeds are returned monthly to the appropriate county.<sup>12</sup>

### ***Local Discretionary Sales Surtaxes***

Local discretionary sales surtaxes, also referred to as local option sales taxes, are authorized under s. 212.055, F.S., and provide potential revenue sources for county and municipal governments and school districts. The local discretionary sales surtaxes apply to all transactions that are subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions, pursuant to ch. 212, F.S., and communications services as defined for purposes of ch. 202, F.S. Discretionary sales surtaxes must be collected when the transaction occurs in, or delivery is into, a county that imposes the surtax, and the sale is subject to the state's sales and use tax.<sup>13</sup> The surtax applies to the first \$5,000 of any single taxable item when sold to the same purchaser at the same time.<sup>14</sup>

There are eight different types of local discretionary sales surtaxes currently authorized in law:

- Charter County and Regional Transportation System Surtax;
- Local Government Infrastructure Surtax;
- Small County Surtax;
- Indigent Care and Trauma Center Surtax;
- County Public Hospital Surtax;
- School Capital Outlay Surtax;
- Voter-Approved Indigent Care Surtax; and
- Emergency Fire Rescue Services and Facilities Surtax.

The local discretionary sales surtax rate varies from county to county, depending on the particular levies authorized in that jurisdiction.

### ***Local Government Infrastructure Surtax***

Section 212.055(2)(a)1., F.S., provides that the Local Government Infrastructure Surtax shall be levied at the rate of 0.5 or 1 percent pursuant to an ordinance enacted by a majority vote of the members of the county's governing body and approved by voters in a countywide referendum.<sup>15</sup> If the proposal to levy the surtax is approved by a majority of the electors, the levy shall take effect. The levy may only be extended by voter approval in a countywide referendum. There is no state-mandated limit on the length of levy for surtax ordinances enacted after July 1, 1993.<sup>16</sup> All counties are eligible to levy this surtax.<sup>17</sup>

<sup>11</sup> Section 206.879(1), F.S.

<sup>12</sup> Section 206.879(2), F.S.

<sup>13</sup> *2012 Florida Tax Handbook*, p. 207.

<sup>14</sup> Section 212.054(2)(b)1., F.S.

<sup>15</sup> In lieu of action by the county's governing body, municipalities representing a majority of the county's population may initiate the surtax through the adoption of uniform resolutions calling for a countywide referendum on the issue.

<sup>16</sup> If the surtax was levied pursuant to a referendum held before July 1, 1993, the surtax may not be levied beyond the time established in the ordinance. 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.

<sup>17</sup> The Local Government Infrastructure Surtax is one of four surtaxes subject to a combined rate limitation. A county cannot levy this surtax and the Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax in excess of a combined rate of 1 percent.

Pursuant to s. 212.055(2)(d), F.S., school districts, counties,<sup>18</sup> and municipalities may expend the proceeds of the Local Government Infrastructure Surtax and any accrued interest for the following purposes:

- To finance, plan, and construct infrastructure;
- To acquire land for public recreation, conservation, or protection of natural resources;
- To 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 such use is approved by referendum; or
- To 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.

For purposes of the Local Government Infrastructure Surtax, s. 212.055(2)(d)2., F.S., defines “energy efficiency improvement” as any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to:

- Air sealing;
- Installation of insulation;
- Installation of energy-efficient heating, cooling, or ventilation systems;
- Installation of solar panels;
- Building modifications to increase the use of daylight or shade;
- Replacement of windows;
- Installation of energy controls or energy recovery systems;
- Installation of electric vehicle charging equipment; and
- Installation of efficient lighting equipment.

A local government choosing to expend funds under this provision is required to enact or amend its ordinance pursuant to s. 125.66, F.S., and have the ordinance approved by referendum in a subsequent election.

## **Effects of Proposed Changes**

### ***Natural Gas Fuel Taxes***

Chapter 206, F.S., addresses “Motor and Other Fuel Taxes.” The bill creates Part V of Chapter 206, F.S., consisting of ss. 206.9951-206.998, and entitles it “Natural Gas Fuel.” It repeals the annual decal fee program for motor vehicles powered by alternative fuels and establishes a fuel tax structure for natural gas used as a motor fuel similar to that for diesel fuel beginning January 1, 2019.

Section 206.9951, F.S., provides the following definitions:

- "Motor fuel equivalent gallon" means the volume of natural gas fuel it takes to equal the energy content of 1 gallon of motor fuel.
- "Natural gas fuel" means any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in a motor vehicle as defined in s. 206.01(23), F.S. This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas. The term does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electric generation.
- "Natural gas fuel retailer" means any person who sells natural gas fuel for use in a motor vehicle as defined in s. 206.01(23), F.S.

---

<sup>18</sup> Pursuant to s. 212.055(2)(d), F.S., proceeds of the surtax may also be expended within another county in the case of a negotiated joint county agreement.

- "Natural gasoline" is a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel.
- "Person" means a natural person, corporation, copartnership, firm, company, agency, or association; a state agency; a federal agency; or a political subdivision of the state.

The bill requires any person selling natural gas fuel at retail in Florida to obtain a natural gas fuel retailer license (license) from the Department of Revenue (DOR or department). Until December 31, 2018, any person who acts as a natural gas retailer and does not hold a valid license must pay a penalty of \$200 for each month of operation without a license. Beginning January 1, 2019, a penalty of 25 percent of the tax assessed on total purchases is imposed on any person who acts as a natural gas fuel retailer and does not have a valid license.<sup>19</sup> In order to apply for a license from DOR, the applicant must file an application and a bond with the department and pay a license fee of \$5 for deposit into the General Revenue Fund.<sup>20</sup>

The bill replaces the annual decal and fee originally required in s. 206.877, F.S., with a tax on each motor fuel equivalent gallon of natural gas fuel. The bill provides the motor fuel equivalent gallon rates for compressed natural gas, liquefied natural gas, and liquefied petroleum gas. The person liable for payment of the taxes is the person selling the fuel to the end user for use in the fuel supply tank of a motor vehicle as defined in s. 206.01(23), F.S.<sup>21</sup>

Section 206.9955(2), F.S., provides for the following taxes on natural gas fuel, effective January 1, 2019:

- An excise tax of 4 cents upon each motor fuel equivalent gallon of natural gas fuel.
- An additional tax of 1 cent upon each motor fuel equivalent gallon of natural gas fuel, which is designated as the "ninth-cent fuel tax."
- An additional tax of 1 cent on each motor fuel equivalent gallon of natural gas fuel by each county, which is designated as the "local option fuel tax."
- An additional tax on each motor fuel equivalent gallon of natural gas fuel, which is designated as the "State Comprehensive Enhanced Transportation System Tax," at a rate determined pursuant to paragraph (d) of the subsection.<sup>22</sup>
- An additional tax is imposed on each motor fuel equivalent gallon of natural gas fuel "for the privilege of selling natural gas fuel," at a rate determined as specified in paragraph (e) of the section.<sup>23</sup>

The bill provides that for the purpose of determining the amount of taxes, beginning with February 2019, each natural gas fuel retailer shall file, no later than the 20<sup>th</sup> of each month, monthly reports with the DOR providing information on inventory, purchases, nontaxable disposals, and taxable sales in gallons of natural gas fuel for the preceding month. The natural gas fuel retailer is allowed to deduct 0.67 percent of the amount of taxes owed to "compensate it for services rendered and expenses incurred in complying with the requirements..."<sup>24</sup> Upon the filing of the monthly report, the natural gas fuel retailer shall pay the DOR the full amount of fuel taxes for the preceding month, less the amount allowed for services and expenses.

<sup>19</sup> Section 206.9952(3), F.S.

<sup>20</sup> Section 206.9952, F.S.

<sup>21</sup> See ss. 206.9955 and 206.996, F.S., for detailed information on specific calculations.

<sup>22</sup> Each calendar year, the department shall determine the tax rate applicable to the sale of natural gas fuel for the following 12-month period beginning January 1, rounded to the nearest tenth of a cent, by adjusting the initially established tax rate of 5.8 cents per gallon by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30.

<sup>23</sup> Each calendar year, the department shall determine the tax rate applicable to the sale of natural gas fuel, rounded to the nearest tenth of a cent, for the following 12-month period beginning January 1. The tax rate is calculated by adjusting the initially established tax rate of 9.2 cents per gallon by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30.

<sup>24</sup> Section 206.996(1), F.S.

The bill provides exemptions from the tax imposed by chapter 206 when used or purchased for the following.<sup>25</sup>

- Exclusive use by the United States or its departments or agencies.<sup>26</sup>
- Use for agricultural purposes as defined in s. 206.41(4)(c).
- Uses as provided in s. 206.874(3) (which addresses dyed diesel fuel).
- Used to propel motor vehicles operated by state and local government agencies.
- Individual use resulting from residential refueling devices located at a person's primary residence.
- Purchases of natural gas fuel between licensed natural gas fuel retailers.<sup>27</sup>

The bill provides for a refund of 35 percent of the taxes paid on the purchase of natural gas fuel that is consumed by a power take off or engine exhaust for the purpose of unloading bulk cargo by pumping or turning a concrete mixer drum used in the manufacturing process, or for the purpose of compacting solid waste, which is mounted on a motor vehicle and which has no separate fuel tank or power unit.<sup>28</sup>

Section 206.997, F.S., directs that, beginning with the calendar year 2019 and thereafter, revenues from the ninth-cent fuel tax and the local option fuel tax be deposited into the Local Alternative Fuel User Fee Clearing Trust Fund. Proceeds in this trust fund will be returned monthly to the appropriate counties.

The remainder of the natural gas fuel tax proceeds shall be deposited into the State Alternative Fuel User Fee Clearing Trust Fund to be distributed as follows:

- Revenues from the SCETS tax shall be transferred to the State Transportation Trust Fund.
- Revenues from the tax on the "privilege of selling natural gas fuel" shall be transferred to the State Transportation Trust Fund.
- Revenues from the state excise tax shall be distributed as follows:
  - 50 percent shall be transferred to the State Board of Administration for distribution in accordance with the Florida Constitution.
  - 25 percent shall be transferred to the Revenue Sharing Trust Fund for Municipalities.
  - 25 percent shall be distributed in accordance with s. 206.60(1), F.S. (to the counties for specified public transportation purposes).

The bill specifies that existing provisions within part I and part II of chapter 206 shall be applicable to the taxes levied, imposed, and collected unless the provision conflicts with the new part.

### ***Local Government Infrastructure Surtax***

As noted in the *Present Situation* section, "energy efficiency improvement" is defined within the Local Government Infrastructure Surtax subsection of s. 212.055, F.S., as any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to:

- Air sealing;
- Installation of insulation;
- Installation of energy-efficient heating, cooling, or ventilation systems;
- Installation of solar panels;
- Building modifications to increase the use of daylight or shade;

---

<sup>25</sup> Section 206.9965, F.S.

<sup>26</sup> Exclusive use by the United States or its departments and agencies means the consumption by the United States or its departments or agencies of natural gas fuel in a motor vehicle as defined in s. 206.01(23).

<sup>27</sup> A natural gas fuel retailer that sells tax-paid natural gas fuel to another natural gas fuel retailer may take a credit on its monthly return or may file a claim for refund with the Chief Financial Officer pursuant to s. 215.26, F.S. All sales of natural gas fuel between natural gas fuel retailers must be documented on invoices or other evidence of the sale of such fuel and the seller shall retain a copy of the purchaser's natural gas fuel retailer license.

<sup>28</sup> Section 206.9965(7), F.S.



- Replacement of windows;
- Installation of energy controls or energy recovery systems;
- Installation of electric vehicle charging equipment; and
- Installation of efficient lighting equipment.

The bill adds “installation of systems for natural gas fuel as defined in s. 206.9951” to the definition of “energy efficiency improvement.” This would allow a county to use surtax revenues as loans, grants, or rebates to private property owners who install natural gas fueling systems if a local government ordinance authorizing such use is approved by referendum.<sup>29</sup>

### ***Sales and Use Tax***

The bill exempts natural gas and natural gas fuel from the state sales and use tax when the fuel is placed into the fuel supply system of a motor vehicle.

### ***Office of Program Policy Analysis and Government Accountability (OPPAGA)***

The bill directs OPPAGA to complete and submit a report regarding the taxation of natural gas fuel used to power motor vehicles to the President of the Senate and the Speaker of the House by December 1, 2017. At a minimum, the report must do the following:

- Evaluate growth trends in the use of natural gas fuel;
- Survey how other states tax natural gas fuel and how they provide incentives to consumers of such fuel; and
- Survey consumers and suppliers of natural gas fuel.

#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 206.86, F.S.; deletes definitions for the terms "alternative fuel" and "natural gasoline."

**Section 2.** Amends s. 206.87, F.S.; conforms a cross-reference.

**Section 3.** Repeals s. 206.877, F.S., relating to the annual decal fee program for motor vehicles powered by alternative fuels.

**Section 4.** Repeals s. 206.89, F.S., relating to the requirements for alternative fuel retailer licenses.

**Section 5.** Amends s. 206.91, F.S.; makes grammatical and technical changes.

**Section 6.** Provides a directive to the Division of Law Revision and Information to create part V of chapter 206, Florida Statutes.

**Section 7.** Creates s. 206.9951, F.S.; provides definitions.

**Section 8.** Creates s. 206.9952, F.S.; establishes requirements for natural gas fuel retailer licenses; provides penalties for certain licensure violations.

**Section 9.** Creates s. 206.9955, F.S.; provides for the levy of the natural gas fuel tax; provides calculations for a motor fuel equivalent gallon; authorizes the Department of Revenue to adopt rules.

**Section 10.** Creates s. 206.996, F.S.; establishes requirements for monthly reports of natural gas fuel retailers; provides that reports are made under the penalties of perjury; allows natural gas fuel retailers to seek a deduction of the tax levied under specified conditions.

---

<sup>29</sup> Section 212.055(2)(d), F.S.  
**STORAGE NAME:** h0579f.RAC  
**DATE:** 4/12/2013

**Section 11.** Creates s. 206.9965, F.S.; provides exemptions and refunds from the natural gas fuel tax.

**Section 12.** Transfers and renumbers s. 206.879, F.S., as s. 206.997, F.S., and amends to revise provisions relating to the State Alternative Fuel User Fee Clearing Trust Fund and the Local Alternative Fuel User Fee Clearing Trust Fund.

**Section 13.** Creates s. 206.998, F.S.; provides for the applicability of specified sections of parts I and II of ch. 206, F.S.

**Section 14.** Amends s. 212.055, F.S.; expands the use of the local government infrastructure surtax to include the installation of systems for natural gas fuel.

**Section 15.** Amends s. 212.08, F.S.; provides an exemption from taxes for natural gas fuel under certain circumstances.

**Section 16.** Requires the Office of Program Policy Analysis and Government Accountability to complete a report reviewing the taxation of natural gas fuel; requires the report to be submitted to the President of the Senate and the Speaker of the House of Representatives by December 1, 2017.

**Section 17.** Provides an effective date of January 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

On April 5, 2013, the Revenue Estimating Conference estimated that in FY 2013-14, there will be an insignificant negative impact on revenues to the General Revenue Fund and a (\$0.3) million impact to state trust funds. However, in FY 2018-19, net revenue impacts will become more positive on a permanent basis as the new fuel tax system created by the bill takes effect. Consequently, the recurring revenue impacts, expressed in FY 2013-14 dollars reflecting the longer-run perspective, will be \$0.1 million to the General Revenue Fund and (\$0.3) million state trust funds.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

On April 5, 2013, the Revenue Estimating Conference estimated that in FY 2013-14, there will be an insignificant negative impact to local governments and slightly negative impacts in the subsequent four years of (\$0.1) million annually. However, in FY 2018-19 net revenue impacts will become more positive on a permanent basis as the new fuel tax system created by the bill takes effect. Consequently, the recurring revenue impacts, expressed in FY 2013-14 dollars reflecting the longer-run perspective, will be \$0.2 million to local government.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in increased savings for drivers utilizing vehicles powered by natural gas fuel, an increase in conversions of vehicle fleets from being powered by traditional fuels to natural gas fuel, and an increase in natural gas refueling infrastructure across the state.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Revenue is authorized to adopt rules and publish forms to administer the fuel sales tax in s. 206.9955, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 5, 2013, the Energy & Utilities Subcommittee adopted a Proposed Committee Substitute (PCS) for the bill and passed the bill out as a committee substitute. One amendment to the PCS was adopted.

The amended PCS made the following changes to the filed version of the bill:

- Removed Section 4 from the bill. Section 4 created the Natural Gas Fuel Vehicle Investment Program, which directed that certain taxes be deposited into the General Inspection Trust Fund to be used to provide rebates for the incremental cost or purchase of natural gas fuel vehicles.
- Provided that natural gas fuel is exempt from the sales and use tax imposed in chapter 212, F.S.
- Provided for a 5-year exemption of natural gas fuel taxes beginning on January 1, 2014, and ending on December 31, 2018.
- Provided for a \$200 penalty for every month that a person who acts as a natural gas retailer without a valid license is in operation during the five-year tax exemption period.
- Adjusted the State Comprehensive Enhanced Transportation System Tax from being initially established at a tax rate of 6.9 cents per gallon to 7.1 cents per gallon.
- Revised the definitions of "natural gas fuel," "natural gas fuel retailer," and "person" in part V of chapter 206, F.S.

On April 9, 2013, the Regulatory Affairs Committee adopted a strike-all amendment to the bill and passed the bill out as a committee substitute. The amendment made the following changes to the committee substitute:

- Clarified that the term "natural gas fuel" does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electric generation.
- Amended the motor fuel equivalent gallon of liquefied natural gas from 6.22 to 6.06 pounds.
- Decreased the local option fuel tax on each motor fuel equivalent gallon of natural gas from 6 cents to 1 cent per gallon.

- Decreased the State Comprehensive Enhanced Transportation System Tax from 7.1 cents to 5.8 cents per gallon.
- Decreased the tax imposed on each motor fuel equivalent gallon of natural gas fuel for the privilege of selling natural gas fuel from 12.9 cents to 9.2 cents per gallon and removed the designation of this tax as the “fuel sales tax.”
- Provided for a 35 percent tax refund for natural gas fuel consumed by a power take off or engine exhaust for the purpose of unloading bulk cargo.
- Removed termination of the Local Alternative Fuel User Fee Clearing Trust Fund.
- Revised distribution language for the State Alternative Fuel User Fee Clearing Trust Fund and the Local Alternative Fuel User Fee Clearing Trust Fund.
- Directed OPPAGA to complete and submit a report regarding the taxation of natural gas fuel to the President of the Senate and the Speaker of the House by December 1, 2017.

The staff analysis has been updated to reflect the current committee substitute.