

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS
FINAL BILL ANALYSIS**

BILL #: CS/HB 7123 PCB WMC 19-02 Taxation
SPONSOR(S): Appropriations Committee and Ways & Means Committee, Avila
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1412

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee	14 Y, 2 N	Berg	Langston
1) Appropriations Committee	18 Y, 9 N	Hawkins	Pridgeon
FINAL HOUSE FLOOR ACTION: GOVERNOR'S ACTION: Pending			
81	Y's 25	N's	

SUMMARY ANALYSIS

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

For sales tax purposes, the bill provides a tax rate reduction for commercial property rentals (business rent tax), includes sales tax refunds for certain purchases of agriculture-related fencing materials and building materials for repair of damage from Hurricane Michael, and creates an exemption for property donated to a charitable organization by a sales tax dealer who originally purchased the property for resale. The bill provides for a five-day "back-to-school" holiday for certain clothing, school supplies, and personal computers, and a seven-day "disaster preparedness" holiday for specified disaster preparedness items.

For property tax purposes, the bill provides tax relief for certain agricultural equipment damaged by Hurricane Michael, provides additional flexibility to the Department of Revenue in conducting in-depth reviews of property assessment rolls in counties affected by natural disasters, and adjusts the timing of payments to local governments in fiscally constrained counties and Monroe County to offset property tax refunds granted to homeowners due to hurricanes in 2016 and 2017. The bill also provides that school district voted discretionary operating levies are to apply proportionately to charter schools in the levying district and be used in a manner consistent with the purposes of the levy for any levy approved by a vote on or after July 1, 2019. Referenda after this date must include an explanation of how the funds will be distributed in accordance with the new requirements.

Further changes include removing a limitation on the exemption from documentary stamp tax for transfers of homestead property between spouses, increasing a discount on certain traffic fines if the violator attends a driver improvement course, creating a refund for fuel taxes paid for agricultural shipment or debris removal from agricultural properties in counties affected by Hurricane Michael, revising the definition of "pass-through provider" for purposes of certain local fees related to the use of public rights-of-way, and providing insurance premium taxpayers additional flexibility in applying for, earning, and using tax credits under the Florida Scholarship Tax Credit Program.

The bill provides for a \$328,319 nonrecurring appropriation from the General Revenue Fund to the Department and authorizes the Department to adopt emergency rules to implement certain provisions of the bill.

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

The total state and local government impact of the bill in fiscal year 2019-20 is -\$87.0 million (-\$73.0 million recurring). See FISCAL COMMENTS section for details.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7123z.WMC.DOCX

DATE: 5/10/2019

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Sales Tax

Florida's sales and use tax is a six percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals,¹ unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's general revenue stream (77.0 percent for FY 2018-19)² and is administered by the Department of Revenue (DOR) under ch. 212, F.S.

Sales Tax on Rental of Commercial Real Estate (Business Rent Tax)

Current Situation

Since 1969, Florida has imposed a sales tax on the total rent charged under a commercial lease of real property.³ Sales tax is due at the rate of 5.7 percent on the total rent paid for the right to use or occupy commercial real property. Local option sales surtaxes can also apply.⁴ If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.

Commercial real property includes land, buildings, office or retail space, convention or meeting rooms, airport tie-downs, and parking and docking spaces. It may also involve the granting of a license to use real property for placement of vending, amusement, or newspaper machines. However, there are numerous commercial rentals that are not subject to sales tax, including:

- Rentals of real property assessed as agricultural;
- Rentals to nonprofit organizations that hold a current Florida consumer's certificate of exemption;
- Rentals to federal, state, county, or city government agencies;
- Properties used exclusively as dwelling units; and
- Public streets or roads used for transportation purposes.

Florida is the only state to charge sales tax on commercial rentals of real property.

Proposed Changes

The bill reduces the state sales tax rate on rental of commercial real estate from 5.7 percent to 5.5 percent, beginning January 1, 2020.

Donations to Charities

Current Situation

¹ The Legislature reduced the sales tax rate on commercial rentals to 5.7% effective January 1, 2019. See s. 33, ch. 2018-118, L.O.F.

² FLORIDA REVENUE ESTIMATING CONFERENCE (REC), 2019 FLORIDA TAX HANDBOOK (2019).

³ ch. 1969-222, Laws of Fla.

⁴ s. 212.031, F.S., and Rule 12A-1.070, F.A.C.

Section 212.08(7), F.S., exempts from the sales and use tax the sale or lease of tangible personal property made to an organization determined to be exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986. However, donations made by entities that purchase items tax exempt for resale must pay tax on the acquisition cost of the tangible personal property that is subsequently donated.

Proposed Changes

The bill amends s. 212.08(7)(p), F.S., to exempt from the sales and use tax tangible personal property that was purchased tax exempt for resale by a dealer but whose purchase was subsequently donated to a tax-exempt entity.

Fencing Materials used in Agriculture

Current Situation

Current law exempts from the sales and use tax certain items used for agricultural purposes and nets used by commercial fisheries.⁵ The exemption is not allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated in s. 212.08(5)(a), F.S.

Hurricane Michael's path coincided with some of Florida's most productive agricultural regions in the state, and consequently it caused major losses to all segments of agriculture production, including crop losses and damaged infrastructure (such as destroyed fences, shade structures, and ground cover for row crops). Preliminary estimates for total losses (crops and infrastructure) reported by the Department of Agriculture and Consumer Services to Florida's agricultural sectors are nearly \$1.5 billion.⁶

Proposed Changes

The bill provides an exemption from the sales and use tax for the purchase of fencing materials used in the repair or replacement of agricultural fencing that was damaged as a direct result of Hurricane Michael. The exemption is available through a refund of previously paid taxes and applies to purchases made between October 10, 2018, and June 30, 2019.

To receive a refund, the owner of the fencing materials must apply to the DOR by December 31, 2019, and include the following information:

- The name and address of the person claiming the refund.
- The address and assessment roll parcel number of the agricultural land where the fencing materials will be or were used.
- The sales invoice or other proof of purchase of the fencing materials, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the materials were purchased.
- An affidavit executed by the owner of the fencing materials including a statement that the fencing materials were or will be used to repair fencing damaged as a direct result of the impact of Hurricane Michael.

Building Materials for Nonresidential Farm Buildings

⁵ Section 212.08(5)(a), F.S.

⁶ Hurricane Michael's Damage to Florida Agriculture, available at: <http://nwdistrict.ifas.ufl.edu/phag/files/2018/11/FDACA-Hurricane-Michael-Agriculture-Damage-Assessment-Report.pdf> (last accessed 5/7/2019).

Current Situation

Current law defines a “nonresidential farm building” as any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c) or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, F.S., and is not intended to be used as a residential dwelling.⁷ The term includes barns, greenhouses, shade houses, farm offices, storage buildings, and poultry houses.

Generally, sales and use tax are currently levied on the purchase of tangible personal property that is used in the construction or repair of buildings and other projects, unless specifically exempted.⁸ There is currently no general sales tax exemption for the purchase of tangible personal property used in the construction or repair of nonresidential farm buildings.

Hurricane Michael caused major losses to Florida’s agricultural landscapes, and damage to nonresidential farm buildings is a part of the agricultural infrastructure losses.

Proposed Changes

The bill provides an exemption from the sales and use tax for the purchase of certain building materials used to repair or replacement nonresidential farm buildings that were damaged as a direct result of Hurricane Michael. The exemption is available through a refund of previously paid taxes and applies to purchases made between October 10, 2018, and June 30, 2019. The exempt building materials are broadly defined as tangible personal property that becomes a component part of a nonresidential farm building.

To receive a refund, the owner of the building materials must apply to the DOR by December 31, 2019, and include the following information:

- The name and address of the person claiming the refund.
- The address and assessment roll parcel number of the real property where the building materials will be or were used.
- The sales invoice or other proof of purchase of the building materials, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the materials were purchased.
- An affidavit executed by the owner of the building materials including a statement that the building materials were or will be used to repair the nonresidential farm building damaged as a direct result of the impact of Hurricane Michael.

Sales Tax Holidays

Current Situation

Since 1998, the Legislature has enacted 24 temporary periods (commonly called “sales tax holidays”) during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and the various local government discretionary sales surtaxes.

⁷ Section 604.50, F.S.

⁸ For example, s. 212.08(7)(r), F.S., exempts the sale of building materials that are used in new construction located in a rural area of opportunity.

Back-to-School Holidays--Florida has enacted a “back to school” sales tax holiday seventeen times since 1998. The length of the exemption periods has varied from three to 10 days. The type and value of exempt items has also varied. Clothing and footwear have always been exempted at various thresholds, most recently \$60. Books valued at \$50 or less were exempted in six periods. School supplies have been included starting in 2001, with the value threshold increasing from \$10 to \$15. In 2013 and 2017, personal computers and related accessories purchased for noncommercial home or personal use with a sales price of \$750 or less were exempted. In 2014 and 2015, the first \$750 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use were exempted. The following table describes the history of back-to-school sales tax holidays in Florida.

Dates	Length	TAX EXEMPTION THRESHOLDS				
		Clothing/ Footwear	Wallets/ Bags	Books	Computers	School Supplies
August 15-21, 1998	7 days	\$50 or less	N/A	N/A	N/A	N/A
July 31-August 8, 1999	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 29-August 6, 2000	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 28-August 5, 2001	9 days	\$50 or less	\$50 or less	N/A	N/A	\$10 or less
July 24-August 1, 2004	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 13-15, 2010	3 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 12-14, 2011	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 3-5, 2012	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 2-4, 2013	3 days	\$75 or less	\$75 or less	N/A	\$750 or less	\$15 or less
August 1-3, 2014	3 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 7-16, 2015	10 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 5-7, 2016	3 days	\$60 or less	\$60 or less	N/A	N/A	\$15 or less
August 4-6, 2017	3 days	\$60 or less	\$60 or less	N/A	\$750 or less	\$15 or less
August 3-5, 2018	3 days	\$60 or less	\$60 or less	N/A	N/A	\$15 or less

For the 2018-19 school year, 20 (30 percent) of Florida school districts held their opening day for students during the first full week of August (Aug. 6 – 10). Another 46 districts (69 percent) had opening days during the second week of August (Aug. 13-17). The remaining district had its opening day on August 20.

Hurricanes Preparedness Holidays-- Florida has enacted a “Disaster Preparedness” sales tax holiday five times since 2006. The length of the exemption periods has varied from three to 12 days. The type and value of exempt items has also varied. Certain items have been exempted at the same threshold for every holiday: reusable ice (\$10 or less), self-powered light sources (\$20 or less), fuel containers (\$25 or less), batteries (\$30 or less), coolers and ice chests (\$30 or less), and tie down kits and waterproof sheeting (\$50 or less). Radios valued at \$50 or less were exempted in four periods, and

radios valued at \$75 or less were exempted in the other period. Generators have been included in every period, but at different values. In 2006 and 2007, generators \$1000 or less were exempt. The 2014, 2017, and 2018 periods exempted generators \$750 or less. Early exemption periods also exempted cell phone batteries and chargers, storm shutters, and carbon monoxide detectors. The following table describes the history of disaster preparedness sales tax holidays in Florida.

Dates	Length	TAX EXEMPTION THRESHOLDS							
		Reusable Ice	Light Source	Fuel Containers	Batteries	Coolers and Ice Chests	Radios	Tie down tools and sheeting	Generators
May 21- June 1, 2006*	12 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$1000 or less
June 1- June 12, 2007*	12 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$75 or less	\$50 or less	\$1000 or less
May 31- June 8, 2014**	9 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$750 or less
June 2 – June 4, 2017	3 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$750 or less
June 1- 7, 2018	7 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$750 or less

* This holiday also included cell phone batteries (\$60 or less), cell phone charger (\$40 or less), storm shutters (\$200 or less), carbon monoxide detectors (\$75 or less), and any combination of items exempt under the holiday or existing law which were sold together for \$75 or less.

** This holiday included an exemption for first aid kits selling for \$30 or less; however, these items are always exempt under s. 212.08(2)(a), F.S.; see form DR-46NT, *Nontaxable Medical Items and General Grocery List*, available at: http://floridarevenue.com/Forms_library/current/dr46nt.pdf.

In 2018, the Florida Office of Insurance Regulation estimated a gross probable loss of over \$6 billion due to Hurricane Michael in 2018,⁹ \$11 billion due to Hurricane Irma in 2017,¹⁰ \$1 billion due to hurricanes Hermine and Mathew in 2016,¹¹ \$25 billion due to four hurricanes in 2004, and \$10.8 billion due to four hurricanes in 2005.¹² Tropical Storm Fay was estimated to have resulted in \$242 million of damage in 2008.¹³ The Florida Division of Emergency Management recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit.¹⁴

Proposed Changes

⁹ Florida Office of Insurance Regulation, Catastrophe Report, available at:

<https://flor.com/Office/HurricaneSeason/HurricaneMichaelClaimsData.aspx> (last visited March 27, 2019).

¹⁰ Florida Office of Insurance Regulation, Catastrophe Report, available at:

<https://www.flor.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx> (last visited March 27, 2019).

¹¹ Florida Office of Insurance Regulation, Catastrophe Report, available at:

<https://flor.com/Office/HurricaneSeason/HurricaneMatthewClaimsData.aspx> (last visited March 27, 2019).

¹² Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: <http://www.flor.com/siteDocuments/HurricaneSummary20042005.pdf>

¹³ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: <http://www.flor.com/siteDocuments/HurricaneSummary2008.pdf>.

¹⁴ Florida Division of Emergency Management, *Disaster Supply Kit*, <https://www.floridadisaster.org/plan--prepare/disaster-supply-kit/> (last visited Feb. 15, 2018).

The bill establishes a temporary back-to-school sales tax holiday in fiscal year 2019-20 and a temporary disaster preparedness sales tax holiday in 2019.

Back-to-School Holiday—The bill provides for a five-day sales tax holiday from August 2, 2019, through August 6, 2019. During the holiday, the following items that cost \$60 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an “article of wearing apparel intended to be worn on or about the human body,” but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

The bill also exempts various “school supplies” that cost \$15 or less per item during the holiday.

Additionally exempted are personal computers and related accessories purchased for noncommercial home or personal use that cost less than \$1000. This includes tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted. Also not exempt are monitors that include a television tuner.

Disaster Preparedness Sales Tax Holiday-- The bill provides for a seven-day sales tax holiday from May 31, 2019, through June 6, 2019 for specified items related to disaster preparedness. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

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

The above sales tax holidays do not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

Additionally, the “back to school” sales tax holiday would be allowed to apply at the option of the dealer if less than five percent of the dealer’s gross sales of tangible personal property in the prior calendar year is comprised of items that would be exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2019, the dealer must notify DOR in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business. The bill authorizes the DOR to adopt emergency rules to implement the provisions of the tax holidays.

Property Taxation in Florida

Assessment of Agricultural Equipment Damaged by Hurricane Michael

Current Situation

Counties, municipalities, school districts, and some special districts have the authority to levy ad valorem (“property”) taxes.¹⁵ Property tax applies to real property and tangible personal property.

“Tangible personal property” means all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is intrinsic to the article itself.¹⁶ All tangible personal property is subject to ad valorem taxation unless expressly exempted.¹⁷ Household goods and personal effects,¹⁸ items of inventory,¹⁹ and up to \$25,000 of assessed value for each tangible personal property tax return²⁰ are exempt from ad valorem taxation.

For purposes of ad valorem property taxation, agricultural equipment that is located on property classified as agricultural under s. 193.461, F.S., and is obsolete and no longer usable for its intended purpose is deemed to have a market value no greater than its value for salvage.²¹

Proposed Changes

The bill creates s. 193.4517, F.S., providing that tangible personal property owned and operated by a farm, farm operation, or agricultural processing facility in certain counties shall be deemed to have a market value no greater than its salvage value, provided the tangible personal property was unable to be used in the operation of the facility for at least 60 days due to the effects of Hurricane Michael.²² This valuation will be effective only for the 2019 tax year.

School Discretionary Operating Levies

Current Situation

Local governments, including counties, school districts, and municipalities have the constitutional authority to levy ad valorem taxes. Special districts may also be given this authority by law.²³ Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions. Specifically regarding school districts, a district may not exceed ten mills when assessing ad valorem taxes on the value of real estate and tangible personal property, except under limited circumstances when approved by voters in the levying jurisdiction.²⁴

School District Funding

¹⁵ FLA. CONST. art VII, s. 9.

¹⁶ Section 192.001(11)(d), F.S.

¹⁷ Section 196.001(1), F.S.

¹⁸ Section 196.181, F.S.

¹⁹ Section 196.185, F.S.

²⁰ Section 196.183, F.S.

²¹ Section 193.4615, F.S.

²² The exemption is limited to properties in Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Gadsden, Liberty, Franklin, Leon, or Wakulla Counties.

²³ FLA. CONST. art VII, s. 9.

²⁴ FLA. CONST. art VII, s. 9(b).

School Districts that participate in the state appropriations for the Florida Education Finance Program (FEFP) must make the minimum financial effort required for the support of the FEFP as prescribed in each year's General Appropriations Act ("Act").²⁵ This is commonly known as the required local effort property tax levy. The Act provides school districts with their total annual allocation and prescribes that the funds be distributed periodically in accordance to the Act.

A school district may levy a nonvoted current operating discretionary millage in addition to the required local effort millage, yet the legislature may prescribe the maximum amount of millage a district may levy in the Act.²⁶ Also, a school board may levy up to 1.5 mills for a variety of capital outlay purposes for both charter schools and other public schools.²⁷ In addition to the maximum nonvoted operating millage above, a school district may levy millage for school operating purposes, effective for up to four years, by local referendum. The total amount of millage, combined with the all other nonvoted millages levied by the district may not exceed the 10-mill limit as prescribed in the State Constitution.²⁸

Currently, 15 jurisdictions have school district voting operating millage levies for fiscal year 2018-2019. An additional 7 jurisdictions have approved future levies. These jurisdictions, along with the voted levy amounts, are provided in the following charts:

Levying for FY 2018-19		
	<u>District</u>	<u>Millage Rate</u>
1	Alachua	1.00
2	Franklin	0.50
3	Gulf	1.00
4	Hamilton	0.25
5	Indian River	0.50
6	Manatee	1.00
7	Marion	1.00
8	Martin	0.50
9	Monroe	0.55
10	Orange	1.00
11	Palm Beach	0.25
12	Pinellas	0.50
13	Sarasota	1.00
14	Taylor	0.25
15	Walton	0.50

Approved for Future Levy		
	<u>District</u>	<u>Millage Rate</u>
1	Broward*	0.50
2	Charlotte**	1.00
3	Clay*	1.00
4	Lake*	0.75
5	Miami-Dade**	0.75
6	Monroe*	0.065
7	Palm Beach**	1.00

*--Approved August 2018
 **--Approved November 2018.

Charter School Funding

Section 1002.33(17), F.S., states "students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district."

²⁵ s. 1011.60(6), F.S.

²⁶ s. 1011.71(1), F.S.

²⁷ s. 1011.71(2), F.S.

²⁸ s. 1011.71(9), F.S.

Charter school operations are funded through the FEFP the same as traditional public schools based on the number of students enrolled in the school. A charter school reports its total student enrollment to its sponsor²⁹ for inclusion in the district’s report of student enrollment.³⁰ A charter school’s share of FEFP funds is as determined by the following chart:

Calculating a Charter School’s Share of FEFP Funds³¹
Sum of the school district’s operating funds from the FEFP as provided in s. 1011.62, F.S., and the General Appropriations Act, including the district’s gross state and local funds, discretionary lottery funds, and funds from the district’s current operating discretionary tax levies.
÷ The total funded weighted full-time equivalent students in the district.
x The weighted full-time equivalent students for the charter school.

Operating funds from the FEFP are distributed by the sponsor to the charter school, and the payments must be made monthly or bi-monthly, beginning with the start of the school board’s fiscal year. In the first two years of a charter school’s operation, the school board must distribute funds for the months of July through October based on the projected full-time equivalent (FTE) student membership if a minimum of seventy-five percent (75%) of the projected enrollment is entered into the sponsor’s student information system by the first day of the fiscal year. If less than seventy-five percent (75%) of the projected enrollment is entered into the sponsor’s system, the sponsor shall base payments on the actual number entered into the sponsor’s student information system. The sponsor is prohibited from delaying payment of any portion of a charter school’s funding based upon the timing of receipt of local funds by the school board. Thereafter, the full-time equivalent membership surveys must be used to determine the amount of the charter school’s funding distribution.³²

Related Litigation

On June 13, 2017, a summary judgement was issued in *Indian River Charter High School, Inc. et al v. School Board of Indian River County, Fla. Case No. 31-2016-CA-000432*, holding that charter schools are entitled to receive funding from a voted levy for school operational purposes pursuant to s. 1011.71(9), F.S., pursuant to the formula set forth in s. 1002.33(17), F.S.

In *Academy for Positive Learning, Inc. v. School Board of Palm Beach County, 50-2019-CA-00405-XXXX-MB (Fla. 15th Cir. Ct.)*, initiated in January 2019, charter schools are arguing the school district, contrary to the district’s action thus far, should share the recent voted, operating levy approved in Palm Beach County pursuant to s. 1011.71(9), F.S. This case is in its early stages.

Proposed Changes

The bill amends s. 1011.71(9), F.S. to clarify that the term “school operational purposes” includes charter schools sponsored by a school district, for the purpose of distributing taxes collected under the additional, voted operational millage. The funds levied by this voted millage would be shared proportionately with charter schools based on each charter school’s proportionate share of the district’s total unweighted full-time equivalent student enrollment. The bill provides that the funds must be used by the charter schools in a manner consistent with the purposes of the levy, and that the referendum for

²⁹ A sponsor can be a district school board that approves the charter and holds the contract. Section 1002.33(5)(a)1., F.S.

³⁰ Section 1002.33(17)(a) and (b), F.S. To reflect any changes in enrollment, the charter school’s funding is recalculated during the school year, based upon the October and February FTE enrollment surveys. See s. 1002.33(17)(b), F.S.

³¹ Section 1002.33(17)(b) and (c), F.S.

³² Section 1002.33(17)(e), F.S.

these operational millages must include an explanation of the distribution methodology. These new provisions would apply to levies authorized by a vote on or after July 1, 2019.

Distribution to Fiscally Constrained Counties as a Result of Homestead Property Damaged or Destroyed by Natural Disaster in 2017

Current Situation

Tax Relief for Natural Disasters

In 2018, the Legislature provided tax relief for the victims of Hurricanes Hermine, Matthew, and Irma by providing a relief credit³³ for homestead parcels on which the defined residential improvements were damaged or destroyed by one of these hurricanes.³⁴ If the residential improvement was rendered uninhabitable for at least 30 days due to a hurricane that occurred during the 2016 or 2017 calendar year, taxes initially levied in 2019 were able to be abated.

The tax credit was in the form of a refund. The amount of the credit reflected the value of the homestead structure for the portion of 2016 or 2017 that the structure was uninhabitable as a consequence of hurricane damage.

To receive the tax abatement, the property owner was required to submit an application to the property appraiser by March 1, 2019. A property owner who failed to submit the application by March 1, 2019, waived a claim for abatement of taxes from the natural disaster. The application required the property owner to identify the residential parcel on which the residential improvement was damaged or destroyed, the hurricane that caused the damage or destruction, the date the damage or destruction occurred, and the number of days the property was uninhabitable during either the 2016 or 2017 calendar year.³⁵

Upon receipt of the application, the property appraiser was required to investigate the statements contained therein and determine if the property owner qualified for the disaster relief credit. If the property appraiser determined that the property owner was not entitled to the tax abatement, the property owner could file a petition with the value adjustment board. If the property owner qualified, the property appraiser was directed to issue an official written statement to the tax collector by April 1, 2019, containing:

- The number of days during the calendar year in which the natural disaster occurred that the residential improvement was uninhabitable.³⁶
- The just value of the residential parcel on January 1, 2016 or 2017.
- The post-disaster just value of the residential parcel, as determined by the property appraiser.
- The percent change in value applicable to the residential parcel.³⁷

³³ The law defines “disaster relief credit” as the product arrived at by multiplying the damage differential by the amount of timely paid taxes that were initially levied in the year the natural disaster occurred.

³⁴ See s. 197.318, as created in Section 17 of Chapter 2018-118, L.O.F.

³⁵ The required application elements were included on form DR-463, *Application for Abatement of Taxes for Homestead Residential Improvements*, adopted by the Department of Revenue and available at: <http://floridarevenue.com/property/Documents/dr463.pdf> (last visited March 28, 2019).

³⁶ To qualify for the disaster relief credit, the residential improvement must be uninhabitable for at least 30 days.

³⁷ The statute defines the “percent change in value” as the difference between the residential parcels just value as of Jan. 1, 2017, and its postdisaster just value expressed as a percentage of the parcel’s just value as of Jan. 1, 2017.

The tax collector is to use the property appraiser's written statement to calculate the value of the damage differential and disaster relief credit and process a refund in an amount equal to the disaster relief.³⁸

The tax collector must notify DOR and the governing board of each affected local government of the total reduction in taxes of all property receiving a credit pursuant to this section. The law applied retroactively to January 1, 2016, and expires January 1, 2021.

The law also amended s. 194.032, F.S., to provide that value adjustment boards may hear appeals pertaining to tax abatements under the newly created s. 197.318, F.S.

The law also created s. 218.131, F.S., requiring the legislature to appropriate funds to offset the reduction in ad valorem tax revenue in taxing jurisdictions in Monroe County and fiscally constrained counties which occur as a direct result of the implementation of s. 197.318, F.S. The affected taxing jurisdictions must apply to DOR and provide supporting documentation to receive the appropriation. The appropriations are to be distributed to the affected taxing jurisdictions in January 2020 in proportion of the total reduction in ad valorem tax revenue resulting from the implementation of s. 197.318, F.S.

Proposed Changes

The bill extends from January 2020 to June 2020 the timing of distributions to taxing jurisdictions in fiscally constrained and Monroe counties, to allow sufficient time for the Legislature to determine the necessary appropriation in the 2020 legislative session based on actual data instead of estimates.

Review of Assessment Rolls

Current Situation

Section 195.096, F.S., states that the assessment rolls of each county shall be subject to review by the Department of Revenue (DOR). Furthermore, DOR is required to conduct an in-depth review of the assessment rolls of each county at least once every two years and report the results of its review to specified legislative staff and county officials. In conducting the assessment ratio studies, the department must adhere to the standards to which the property appraisers are required to adhere to and use all practicable steps to maximize the representativeness or statistical reliability of the samples of properties reviewed. However, when statistically valid ratio studies are not available, the statute does not provide the department with flexibility, such as using the best available data, in reaching a level of assessment conclusion for in-depth reviews of assessment rolls.

For counties not subject to an in-depth review, section 195.096(3)(b), F.S., allows the department, if necessary, to project the level of assessment for those counties based on the best information available using professionally accepted methodology.

Following a natural disaster, conducting statistical and analytical reviews of assessment rolls may be difficult. Annual market data before a disaster does not reflect post-disaster conditions, and immediately following a disaster, normal market transactions are limited. As a result, during the years following a natural disaster, statistically valid and reliable ratio studies are not always available.

³⁸ The statute defines "damage differential" as the product arrived at by multiplying the percent change in value by a ratio, the numerator of which is the number of days the residential improvement was rendered uninhabitable, the denominator of which is 365.

Proposed Changes

The bill amends s. 195.096(2), F.S. to allow DOR more flexibility in estimating a county's level of assessment in one or more assessment years following a natural disaster in counties in which a state of emergency has been declared. If the department determines that the natural disaster creates difficulties in its statistical and analytical reviews of the assessment rolls in the affected counties, the department is required to take all practicable steps to maximize the representativeness and reliability of its statistical and analytical reviews and use the best information available to estimate levels of assessment.

Other Issues

Florida Tax Credit Scholarship Program- Insurance Premium Tax Credit Flexibility

Current Situation

The Florida Tax Credit Scholarship Program is funded with contributions to private non-profit scholarship-funding organizations from taxpayers who receive a tax credit for use against their liability for corporate income tax, insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders, or alcoholic beverage taxes on beer, wine and spirits.³⁹ The credit is equal to 100 percent of the eligible contributions made.⁴⁰ To receive a credit the taxpayer must submit an application to DOR and specify each tax for which the taxpayer requests a credit and the applicable taxable or state fiscal year for the credit.⁴¹ Taxpayers can rescind tax credits, which will become available to another eligible taxpayer in that fiscal year.⁴²

The maximum amount of tax credits that may be awarded in FY 2018-19 is \$873.6 million. The Revenue Estimating Conference estimates that contributions applicable against this limit will be \$687.8 million in FY 2018-19.⁴³ In any state fiscal year when the annual tax credits granted for the prior state fiscal year are equal to or greater than 90 percent of the tax credit cap amount applicable to that state fiscal year, the tax credit cap amount is increased by 25 percent.⁴⁴ As the estimated contributions for 2018-2019 do not exceed 90 of the tax credit cap amount for this year, the maximum amount of tax credits expected to be available for award in FY 2019-20 will likely continue at the current \$873.6 million level.

Insurers who wish to use the tax credit against insurance premium tax liabilities may take the credit against the tax due for a taxable year after deducting from that amount:

1. Deductions for assessments made pursuant to s. 440.51, F.S. - Workers' Compensation Administrative Assessments;
2. Credits for taxes paid under ss. 175.101 and 185.08, F.S. - Firefighters' and Police Officers' Pension Trust Funds;
3. Credits for income tax paid under ch. 220, F.S.; and
4. Credit allowed under s. 624.509(5), F.S., as such credit is limited by Section 624.509(6), F.S.⁴⁵

³⁹ See s. 1002.395(6)(m), F.S.

⁴⁰ See ss. 1002.385(9), F.S., 1002.29(9), F.S., and 1002.395(9), F.S.

⁴¹ Sections 1002.395(1) and (5), F.S.

⁴² Sections 220.1875 and 1002.395(5), F.S.

⁴³ Florida Revenue Estimating Conference, Adopted Scholarship Credits, available at:

<http://edr.state.fl.us/Content/conferences/generalrevenue/grscholarshiptaxcreditestimates.pdf> (last visited March 27, 2019)

⁴⁴ Section 1002.395(5)(a), F.S.

⁴⁵ Section 624.51055(1), F.S.

Insurers seeking a credit against insurance premium tax must make the contribution by the end of the calendar year for which the credit will be taken. If the contribution and corresponding credit exceed the taxpayer's liability for that year, it can be carried forward. The current carryforward period is ten years.⁴⁶

For purposes of determining penalties for underpayment of insurance premium tax installment payments, insurers may currently apply a credit only against the installment payment immediately following the contribution.⁴⁷

Proposed Changes

The bill revises the timing provisions for certain contributions so that an insurer can apply for an allocation and/or make a contribution for a given taxable year up until the date the insurer is required to file a return for that year, which is no later than the following March 1. When a taxpayer makes a contribution and earns a credit, the taxpayer will also be able to apply the credit against any installment payment for the taxable year against which the credit is being taken, rather than only the installment payment following the contribution. This retroactive application against installment payments may reduce or eliminate penalties that would otherwise apply.⁴⁸

Refund of Fuel Taxes

Current Situation

Motor fuel and diesel fuel are subject to state taxation pursuant to ch. 206, F.S. The tax rate is a combination of several state and local rates, and the revenue collected is distributed to various state trust funds and to local governments for revenue sharing purposes.⁴⁹ For 2017, the combined state tax rate is 24.8 cents per gallon.⁵⁰ In addition, the retail sale of motor and diesel fuel is subject to sales tax under ch. 212, F.S., under certain circumstances if fuel taxes have not been paid.⁵¹

Current law exempts the sale or use of motor and diesel fuel for agricultural or farm purposes;⁵² however, agricultural or farm purposes are generally defined to mean "used exclusively on a farm or for processing farm products on the farm, and does not include fuel used in any vehicle or equipment operated upon public highways of the state."⁵³

Proposed Changes

⁴⁶ Section 1002.395(5)(c), F.S.

⁴⁷ Section 1002.395(5)(g)2., F.S.

⁴⁸ Similar language currently exists for the corresponding credit against corporate income tax. *See* s. 1002.395(5)(g), F.S.

⁴⁹ Section 206.41, F.S.

⁵⁰ Revenue Estimating Conference, 2018 FLORIDA TAX HANDBOOK, pp. 126-127, available at:

<http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2018.pdf>

⁵¹ Sections 212.18(3) and 212.0501, F.S.; Rule 12B-5.120, F.A.C.

⁵² Sections 206.41(4)(c), 206.64, 206.874(2)-(3), and 212.0501, F.S.

⁵³ The restriction does not apply to fuel used on highways to move equipment from one farm to another.

The bill creates an exemption from state and local taxes imposed on motor fuel and diesel under parts I and II, ch. 206, F.S.,⁵⁴ for fuel that is used for the transportation of agricultural products from the farm or agricultural land to a facility used to process, package, or store the product; and for fuel that is used for hurricane debris removal. The exemption is limited to transport from a farm, nursery, forest, grove, orchard, vineyard, garden, or apiary located in Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Gadsden, Liberty, Franklin, Leon, or Wakulla counties.

The exemption is available through a refund of previously paid taxes and applies to purchases made between October 10, 2018, and June 30, 2019. Excluded from this exemption are the “constitutional fuel tax” levied under s. 9(c), Art. XII of the 1968 State Constitution, and the 0.125 cents per gallon levied to defray expenses for motor fuel inspection, testing and analysis by the Department of Agriculture and Consumer Services.⁵⁵

To receive a refund, the fuel purchaser must apply to the DOR by December 31, 2019, and include the following information:

- The name and address of the person claiming the refund.
- The name and address of up to three owners of a farm or agricultural land whose agricultural product was shipped by the fuel purchaser.
- The sales invoice or other proof of purchase of the fuel, showing the number of gallons of fuel purchased, the type of fuel purchased, the date of purchase, and the name and place of business of the dealer from whom the fuel was purchased.
- The license number, or other identification number, of the motor vehicle that used the exempt fuel.
- An affidavit executed by the fuel purchaser including a statement that he or she purchased and used the fuel in a manner that qualifies for this exemption.

Spousal Homestead Transfers

Current Situation

Florida imposes a documentary stamp tax on tax deeds and other documents related to real property at the rate of 70 cents per \$100 of the consideration paid therefor.⁵⁶ Consideration is defined to include, but is not limited to, the money paid or agreed to be paid; the discharge of an obligation; and the amount of any mortgage, purchase money mortgage lien, or other encumbrance, whether or not the underlying indebtedness is assumed.⁵⁷

Current law provides a documentary stamp tax exemption for a deed, transfer, or conveyance between spouses or former spouses pursuant to an action for dissolution of their marriage if the real property is or was their marital home.⁵⁸ This exemption also applies to conveyances that occurred within one year before the dissolution of marriage.

Current law also provides an exemption from documentary stamp taxes for a deed or other instrument that transfers or conveys homestead property, or any interest therein, between spouses, if the only

⁵⁴ The exemption does not include the 2 cent per gallon “second gas tax” imposed pursuant to art. XII, sec. 9(c), Fla. Const. under s. 206.41(1)(a), F.S., or the 0.125 cents per gallon inspection fee imposed under s. 206.41(1)(h), F.S.

⁵⁵ Sections 206.41(1)(a) and (h), F.S.

⁵⁶ Section 201.02(1)(a), F.S.

⁵⁷ Section 201.02(1)(a), F.S.

⁵⁸ Section 201.02(7), F.S.

consideration for the transfer or conveyance is the amount of a mortgage or other lien encumbering the homestead property at the time of the transfer or conveyance; and the deed or other instrument is recorded within one year after the date of the marriage.

Except for the exemption discussed above, there is no documentary stamp tax exemption for transfers or conveyances between spouses. For instance, if a spouse owned real property before his or her marriage and added the other spouse's name to the deed subsequent to one year after the date of their marriage, documentary stamp tax would be imposed on the transaction.

Proposed Changes

The bill removes the one year limitation on the exception for conveyances between spouses. The exemption will apply to transfers or conveyances between spouses, regardless of whether the transfer or conveyance is from one spouse to another, from one spouse to both spouses, or from both spouses to one spouse, and regardless of the time elapsed between the date of the marriage and the date of the conveyance.

Pass-Through Providers

Current Situation

Pursuant to s. 337.401, F.S., the Department of Transportation (DOT) and each local governmental entity that has jurisdiction and control of public roads or publicly owned rail corridors are authorized to prescribe and enforce reasonable rules or regulations with regard to the placement and maintenance of utility facilities across, on, or within the right-of-way limits of any road or publicly owned rail corridors under its jurisdiction. These entities are referred to individually as the authority. The authority may authorize any person who is a resident of this state, or any corporation which is organized under the laws of this state or licensed to do business within this state, to use a right-of-way for a utility in accordance with the authority's rules or regulations. A utility may not be installed, located, or relocated within a right-of-way unless authorized by a written permit. The permit must require the permit holder to be responsible for any damage resulting from the permitted use of the right-of-way.

Municipalities and counties must treat providers of communications services in a nondiscriminatory and competitively neutral manner when imposing such rules or regulations. The rules and regulations must be generally applicable to all such providers and may not require such providers to apply for or enter into an individual license, franchise, or other agreement as a condition of using the right-of-way.

Pursuant to s. 202.24(1), F.S., the authority of a public body to require taxes, fees, charges, or other impositions from dealers of communications services for occupying its roads and rights-of-way is specifically preempted by the state, with certain exceptions. Section 202.24(2)(c)7., F.S., provides that permit fees related to placing or maintaining facilities in or on public roads or rights-of-way pursuant to s. 337.401, F.S., are one of several taxes, fees, and charges not preempted.

Section 337.401(6)(a)1., F.S., defines a pass-through provider as any person who:

1. Places or maintains a communications facility in the roads or rights-of-way of a municipality or county that levies a Communications Services Tax (CST) pursuant to chapter 202; and,
2. Does not remit CST imposed by that municipality or county.

A communications facility is defined as a facility that may be used to provide communications services. Multiple cables, conduits, strands, or fibers located within the same conduit shall be considered one communications facility for purposes of subsection (6).

Pursuant to s. 337.401(6)(b)-(c), F.S., a municipal or county government that levies a local CST may impose a charge on a passthrough provider, as outlined below:

1. A municipality that levies CST may charge a pass-through provider that places or maintains a communications facility in the municipality's roads or rights-of-way an annual amount not to exceed \$500 per linear mile or portion thereof. A municipality's roads or rights-of-way do not include roads or rights-of-way that extend in or through the municipality but are state, county, or another authority's roads or rights-of-way.
2. A county that levies CST may charge a pass-through provider that places or maintains a communications facility in the county's roads or rights-of-way, including county roads or rights-of-way within a municipality in the county, an annual amount not to exceed \$500 per linear mile or portion thereof. However, a county shall not impose a charge for any linear miles, or portions thereof, of county roads or rights-of-way where a communications facility is placed that extend through any municipality within the county to which the pass-through provider remits a tax imposed pursuant to chapter 202. A county's roads or rights-of-way do not include roads or rights-of-way that extend in or through the county but are state, municipal, or another authority's roads or rights-of-way.

Proposed Changes

The bill amends the definition of "pass-through provider" to exclude a person who does not remit CST to a municipality or county, but who does sell communications service for resale to a person who sells those services at retail or who integrates those services into communications services sold at retail and who remits CST to that municipality or county. This change will exclude those persons from the fee that some jurisdictions levy for use of rights-of-way.

Traffic Fine Reduction for Driver Improvement Course Attendance

Current Situation

A person who commits a noncriminal traffic infraction and is issued a citation, must elect to appear before a designated official, pay the citation, or enter into a payment plan with the clerk of court within 30 days after the citation is issued to avoid having his or her driver license suspended.⁵⁹

Section 318.14(9), F.S., provides that a person who does not hold a commercial driver license or commercial learner's permit and who is cited while driving a noncommercial motor vehicle for a noncriminal traffic infraction may, in lieu of a court appearance, elect to attend a basic driver improvement course.⁶⁰ If a driver improvement course is completed, the civil penalty is reduced by 9 percent, adjudication is withheld and points⁶¹ are not assessed against the person's driver license.

If a person completes a basic driver improvement course, 9 percent of the civil penalty imposed⁶² is deposited in the State Courts Revenue Trust Fund.

A person who elects to attend driver improvement school and has paid the civil penalty,⁶³ but who subsequently fails to attend the driver improvement school within the time specified by the court is deemed to have admitted the infraction and is adjudicated guilty.⁶⁴ In such a case, the clerk of the court

⁵⁹ Section 318.14, F.S.

⁶⁰ Driver improvement courses must be approved by the DHSMV.

⁶¹ Points are provided for in s. 322.27, F.S.

⁶² See s. 318.18(3), F.S. The civil penalty varies by violation.

⁶³ The civil penalty is provided for in s. 318.14(9), F.S.

⁶⁴ Section 318.15(1)(b), F.S.

notifies the Department of Highway Safety and Motor Vehicles (DHSMV) of the person's failure to attend driver improvement school and points are assessed on the person's driver license.

The cost of driver improvement courses range from \$15 to \$40, depending on the provider.⁶⁵

Proposed Changes

The bill amends s. 318.14(9), F.S., increasing from 9 percent to 18 percent, the reduction of the civil penalty for a noncriminal traffic infraction if the person elects to attend driver improvement school. The bill also removes the provision that 9 percent of the civil penalty from those attending driver improvement schools is deposited into the State Courts Revenue Trust Fund. Therefore, the bill reduces the fine for those attending a driver improvement course and reduces the revenue provided to the State Courts Revenue Trust Fund.

The bill also amends s. 318.15(1)(b), F.S., making conforming changes regarding the reduction in fines for those who elect to attend a driver improvement course.

Court Fees

Current Situation

Section 28.241(6), F.S., imposes a \$100 filing fee on attorneys wishing to appear pro hac vice⁶⁶ in trial and appellate proceedings in the state. Of the total fee \$50 is deposited into the General Revenue Fund and \$50 into the State Courts Trust Fund.

Section 741.01, F.S., imposes on every application for a marriage license a fee of \$2, remitted to the clerk for receiving the application; a fee of \$25, remitted by the clerk to the Department of Revenue (DOR) for deposit into the Domestic Violence Trust Fund; and an additional fee of \$25, remitted by the clerk to DOR for deposit into the General Revenue Fund (\$12.50) and the State Courts Trust Fund (\$12.50).

Proposed Changes

The bill redirects from the General Revenue Fund to the State Courts Revenue Trust Fund both the fee imposed for appearing pro hac vice and the additional marriage license fee.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section.

⁶⁵ DHSMV, *2017 Agency Legislative Bill Analysis: HB 547*, on file with the Senate Appropriations Subcommittee on Finance and Tax.

⁶⁶ An attorney licensed in another state, but not a member of the Florida Bar, may appear in trial and appellate proceedings under certain circumstances. This is referred to as appearing Pro Hac Vice. See: <https://www.floridabar.org/rules/upl/upl002/#E-FilingProHacVice> (last visited Mar. 1, 2018).

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

The total impact of the bill in FY 2019-20 is -\$87.0 million (-\$73.0 million recurring) of which -\$69.7 million (-\$63.9 million recurring) is on General Revenue, -\$0.5 million (-\$0.1 million) on state trust funds,, and -\$16.8 million (-\$9.0 million recurring) is on local government (see table below). Total tax reductions embodied in the bill are represented by the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The total of -\$121.5 million in tax reductions is the sum of -\$73.0 million (recurring, excluding appropriations), and -\$48.5 million (pure nonrecurring in FY 2019-20).

Appropriations Detail—The \$328,319 in appropriations contemplated in the bill consists of \$237,000 to implement the “back-to-school” sales tax holiday, and \$91,319 for programming changes and certain taxpayer notifications. Most of the above appropriations are needed to pay the cost of notifying several hundred thousand sales tax dealers of either the temporary or permanent law changes.

CS/HB 7123

Fiscal Year 2019-20 Estimated Fiscal Impacts (millions of \$)

	General Revenue		State Trust Funds		Local		Total	
	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.
<u>Sales Tax</u> : Business Rent Tax/Rate Cut. 0.20%	(27.3)	(57.1)	(*)	(*)	(3.5)	(7.4)	(30.8)	(64.5)
<u>Sales Tax</u> : BTS Holiday 5 Days, \$60/\$15/\$1,000 or less	(31.8)	-	(*)	-	(9.9)	-	(41.7)	-
<u>Sales Tax</u> : Tax Holiday/Disaster Preparedness	(4.4)	-	(*)	-	(1.1)	-	(5.5)	-
<u>Sales Tax/Motor Fuel</u> : Hurricane Michael-Fuel and Sales Tax Refunds	(0.3)	-	(0.3)	-	(0.2)	-	(0.8)	-
<u>Sales Tax</u> : Donations to 501(c)(3)	(3.7)	(3.7)	(*)	(*)	(1.2)	(1.2)	(4.9)	(4.9)
<u>Ins. Premium Tax</u> : Scholarships/Timing Flexibility	(1.1)	(1.1)	-	-	-	-	(1.1)	(1.1)
<u>Ad Valorem</u> : School Voted Taxes/Clarify Use	-	-	-	-	-	-	-	-
<u>Ad Valorem</u> : Small County Hurricane Losses/Date Change	-	-	-	-	-	-	-	-
<u>Ad Valorem</u> : DOR Assessment Flexibility	-	-	-	-	-	-	-	-
<u>Ad Valorem</u> : Hurricane Michael-TPP Assessments	-	-	-	-	(0.5)	-	(0.5)	-
<u>Article V Fee</u> : Traffic Infraction Reduction	(0.7)	(1.9)	-	0.1	-	-	(0.7)	(1.8)
<u>Doc Stamp</u> : Interspousal Transfers	(0.1)	(0.1)	(0.2)	(0.2)	-	-	(0.3)	(0.3)
<u>Local Fees</u> : Pass Through Providers	-	-	-	-	(0.4)	(0.4)	(0.4)	(0.4)
<u>Appropriations</u> : Tax Holidays & Other	(0.33)	-	-	-	-	-	(0.33)	-
2019-20 Total	(69.7)	(63.9)	(0.5)	(0.1)	(16.8)	(9.0)	(87.0)	(73.0)
								Pure Nonrecurring = (48.5)
								Recurring + Pure Nonrecurring (2) = (121.5)

(*) Impact less than \$50,000; (**) Impact is indeterminate.
 (1) Ad valorem tax impacts assume current tax rates.
 (2) Recurring tax cut total (excl. appropriations) = -\$73.0 million
Pure nonrecurring tax cuts in FY 2019-20= -\$48.5 million
-\$121.5 million