

SB 134 by **Hukill**; (Compare to H 5601) Tax-exempt Income
978618 A S RCS AFT, Hukill Delete L.32: 04/02 02:07 PM

CS/SB 312 by **CA, Simpson (CO-INTRODUCERS) Dean, Abruzzo**; (Compare to H 0121) Agriculture
312276 D S RCS AFT, Ring Delete everything after 04/02 02:07 PM

SB 362 by **Bradley**; (Similar to CS/H 0567) Hurricane Preparedness

SB 474 by **Simpson**; (Similar to H 0653) Community Contribution Tax Credit Program
207962 A S RCS AFT, Ring Delete L.241 - 257: 04/02 02:09 PM

CS/SB 596 by **CM, Evers**; (Similar to CS/H 0155) Defense Contracting
731766 D S RCS AFT, Evers Delete everything after 04/02 02:15 PM
113672 AA S L RCS AFT, Evers Delete L.37 - 140: 04/02 02:15 PM

SB 712 by **Galvano (CO-INTRODUCERS) Gibson, Stargel, Abruzzo, Soto, Altman, Garcia**; (Identical to H 0847)
Taxes on Prepaid Calling Arrangements

CS/SB 788 by **JU, Ring**; (Similar to CS/CS/H 0797) Clerks of Court
895102 D S RCS AFT, Ring Delete everything after 04/02 02:13 PM
966052 AA S L RCS AFT, Ring Delete L.31: 04/02 02:13 PM

CS/CS/SB 898 by **CM, CU, Abruzzo (CO-INTRODUCERS) Soto**; (Similar to CS/H 0803) Communications Services
Tax
121496 A S RCS AFT, Abruzzo Delete L.24 - 28: 04/02 02:14 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON FINANCE AND
TAX
Senator Hukill, Chair
Senator Ring, Vice Chair

MEETING DATE: Wednesday, April 2, 2014
TIME: 1:00 —3:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Hukill, Chair; Senator Ring, Vice Chair; Senators Abruzzo, Altman, Brandes, Clemens, Diaz de la Portilla, Evers, Gardiner, Margolis, Sachs, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 134 Hukill (Compare H 5601)	Tax-exempt Income; Increasing the amount of income that is exempt from the corporate income tax; increasing the amount of income that is exempt from the franchise tax imposed on banks and savings associations, etc. BI 02/18/2014 Favorable AFT 03/05/2014 Temporarily Postponed AFT 04/02/2014 Fav/CS AP RC	Fav/CS Yeas 10 Nays 1
2	CS/SB 312 Community Affairs / Simpson (Compare H 121, H 207, CS/H 575)	Agriculture; Providing that participation in certain dispersed water storage programs does not change a land's agricultural classification for assessment purposes; redefining the term "agricultural production" to include storage; expanding the exemption for certain farm equipment from the sales and use tax imposed under ch. 212, F.S., to include repairs of such equipment and trailers that are used for certain purposes, etc. AG 12/09/2013 Favorable CA 01/08/2014 Fav/CS AFT 04/02/2014 Fav/CS AP	Fav/CS Yeas 12 Nays 0
3	SB 362 Bradley (Similar CS/H 567, Compare H 5601)	Hurricane Preparedness; Providing an exemption from the sales and use tax for sales of certain tangible personal property for a certain period for certain purposes; providing for expiration; authorizing the Department of Revenue to adopt rules, etc. CM 02/03/2014 Favorable AFT 04/02/2014 Favorable AP	Favorable Yeas 12 Nays 0

COMMITTEE MEETING EXPANDED AGENDA
 Appropriations Subcommittee on Finance and Tax
 Wednesday, April 2, 2014, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 474 Simpson (Similar H 653, Compare H 5601)	Community Contribution Tax Credit Program; Postponing the expiration date applicable to the granting of the community contribution tax credit against the sales and use tax, corporate income tax, and insurance premium tax for contributions and donations to eligible sponsors of revitalization and housing projects approved by the Department of Economic Opportunity, etc. CA 01/14/2014 Favorable AFT 04/02/2014 Fav/CS AP	Fav/CS Yeas 12 Nays 0
5	CS/SB 596 Commerce and Tourism / Evers (Similar CS/H 155)	Defense Contracting; Authorizing certain prime contractors to apply to the Department of Economic Opportunity to certify that such contractors may reduce their computation of adjusted federal income by a certain amount when awarded a prime contract; providing requirements to apply for a reduction in computation of income; requiring a prime contractor to apply separately for each qualified subcontract award and to provide documentation; revising the definition of the term "adjusted federal income" for corporate income tax purposes, etc. CM 03/03/2014 Fav/CS MS 03/19/2014 Favorable AFT 04/02/2014 Fav/CS AP	Fav/CS Yeas 12 Nays 0
6	SB 712 Galvano (Identical H 847, Compare H 5601)	Taxes on Prepaid Calling Arrangements; Revising the definition of "prepaid calling arrangement" to clarify and update which services are included under that definition and subject to a sales tax, etc. CU 03/04/2014 Favorable AFT 04/02/2014 Favorable AP	Favorable Yeas 12 Nays 0
7	CS/SB 788 Judiciary / Ring (Similar CS/CS/H 797)	Clerks of Court; Authorizing jurors and witnesses to be paid by check; requiring a party applying for garnishment to pay a deposit to the garnishee, rather than in the registry of the court; revising requirements for the redemption of tax certificates; requiring the certificateholder to pay costs of resale within 15 days under certain circumstances; prohibiting a county from applying for a tax deed under certain circumstances; requiring the certificateholder to pay a specified amount of the assessed value of the homestead under certain circumstances; requiring the clerk to ensure that excess funds are paid according to specified priorities, etc. JU 03/11/2014 Fav/CS AFT 04/02/2014 Fav/CS AP	Fav/CS Yeas 12 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Finance and Tax
Wednesday, April 2, 2014, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	CS/CS/SB 898 Commerce and Tourism / Communications, Energy, and Public Utilities / Abruzzo (Similar CS/H 803)	Communications Services Tax; Revising the definition of the term "information services" to include certain data processing and other services, etc. CU 03/04/2014 Fav/CS CM 03/24/2014 Fav/CS AFT 04/02/2014 Fav/CS AP	Fav/CS Yeas 12 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 134

INTRODUCER: Appropriations Subcommittee on Finance and Tax and Senator Hukill

SUBJECT: Tax-exempt Income

DATE: April 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 134 increases the level of income that is exempt from the Florida corporate income tax. Florida imposes a 5.5 percent tax on the net income of corporations doing business in Florida. Currently, however, the first \$50,000 of a corporation's income that is subject to Florida tax is exempt from the corporate income tax. This bill increases the exemption from \$50,000 to \$75,000.

The Revenue Estimating Conference estimates that this bill will reduce general revenue receipts by \$8.8 million Fiscal Year 2014-15, with a recurring impact of \$21.6 million.

II. Present Situation:

Florida began imposing an income tax on corporations in 1972.¹ The initial tax rate was 5 percent, but that rate was increased to 5.5 percent in 1984.²

Currently, Florida's corporate income tax is comprised of two separate 5.5 percent taxes and a 3.3 percent alternative minimum tax.³ The primary component of the tax is the 5.5 percent tax

¹ See Chapter 71-984, Laws of Florida (L.O.F.). Florida began imposing a corporate income tax after a constitutional amendment was adopted in 1971. Currently, the Florida Constitution does not permit an income tax on natural persons. See Article VII, Section 5, Florida Constitution (Fla. Const.).

² See s. 21, 84-549, L.O.F. The Florida Constitution requires a 3/5 vote of the membership of each house of the Legislature in order to impose a tax in excess of 5 percent. See Art. VII, Sec. 5, Fla. Const.

³ Only 1 of these 3 tax components can apply to a taxpayer in a given year.

that applies to “corporations,” as defined by s. 220.03, Florida Statutes.⁴ The second 5.5 percent tax is referred to as the “franchise tax” and is imposed on Florida banks and savings institutions, as defined in s. 220.62, F.S.⁵

Regardless of which 5.5 percent tax applies to a taxpayer, if the taxpayer is subject to the federal alternative minimum tax (AMT), then the taxpayer could be subject to Florida’s AMT.⁶ If so, the taxpayer must pay the greater of the 5.5 percent tax or the 3.3 percent AMT.⁷

Florida’s corporate income tax is imposed on a taxpayer’s “net income.” Net income⁸ is determined through the following process:

1. **Begin with Federal Taxable Income.** Rather than requiring the taxpayer to fully recalculate all of its income and deductions for Florida purposes, Florida taxpayers use their federal taxable income as the starting point for determining how much tax is owed Florida.
2. **Make Certain Statutory Adjustments.** These adjustments are generally known as “additions and subtractions,”⁹ and they relate to various items that Florida treats differently than the federal government. The income remaining after these additions and subtractions is known as “adjusted federal income.”
3. **Apportion and Allocate.** Multi-state taxpayers must determine what portion of their adjusted federal income is properly taxable in Florida – a process generally referred to as “apportionment.” Within this process, the taxpayer first determines what portion of its income is from business operations and what portion of its income is from nonbusiness activities.¹⁰ Its business income is then “apportioned”¹¹ among the states where it does business and its nonbusiness income “allocated” to the state where the transactions or activities that gave rise to the nonbusiness income occurred.¹²

Florida generally uses a three-factor apportionment formula determined by the taxpayer’s payroll, property, and sales. The formula compares the taxpayer’s total payroll, sales and property in all states with the taxpayer’s payroll, sales and property in Florida. The ultimate result of this calculation will be a fraction. A multi-state taxpayer’s business income is then apportioned to Florida based upon that fraction.

⁴ This component of the tax is imposed by s. 220.11(1), F.S. Only a fraction of total Florida businesses are considered “corporations” subject to the Florida corporate income tax. Sole proprietorships, partnerships, limited liability companies, and S corporations are not subject to the tax except under limited circumstances. See s. 220.03(1)(e), F.S.

⁵ The franchise tax is imposed by s. 220.63(1), F.S.

⁶ More information about the AMT for corporations is available from many sources, but a concise explanation was prepared by the nonpartisan Tax Policy Center, an affiliate of The Brookings Institute. The article is available at <http://www.taxpolicycenter.org/publications/url.cfm?ID=1000515>. (Last visited February 6, 2014.)

⁷ See s. 220.11(4), F.S. Although the AMT is a lower nominal rate compared to the 5.5 percent tax, the AMT can result in a higher tax due because it uses a different definition of “taxable income.”

⁸ See s. 220.12, F.S.

⁹ See generally s. 220.13, F.S.

¹⁰ Nonbusiness income is certain income that does not arise from transactions and activities in the regular course of the taxpayer’s trade or business. See s. 220.03(1)(r), F.S.

¹¹ See generally s. 220.15, F.S.

¹² See generally s. 220.16, F.S.

4. **Subtract the Exemption.** Lastly, Florida grants an exemption for the first \$50,000 of income that would otherwise be taxable in Florida.¹³ Accordingly, after apportionment and allocation are applied to determine a taxpayer's income that is properly taxable in Florida, the taxpayer subtracts \$50,000 before applying the tax rate. The amount of income remaining after subtraction of the \$50,000 exemption is known as "net income" and is the amount subject to Florida corporate income tax.

III. Effect of Proposed Changes:

For taxable years beginning on or after January 1, 2015, the bill increases the \$50,000 exemption to \$75,000.

IV. Constitutional Issues:

- A. Municipality/County Mandates Restrictions:

None.

- B. Public Records/Open Meetings Issues:

None.

- C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

- A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that CS/SB 134 will reduce general revenue receipts by \$8.8 million Fiscal Year 2014-2015, with a recurring impact of \$21.6 million.¹⁴

- B. Private Sector Impact:

There are approximately 11,501 corporate income taxpayers in Florida that have a net income over the current \$50,000 exemption. The bill will completely exempt from the tax 2,163 of these taxpayers and provide a tax reduction for the remaining 9,338 taxpayers.

- C. Government Sector Impact:

None.

¹³ The Florida Constitution requires an exemption of at least \$5,000. See Art. VII, Sec. 5, Fla. Const.

¹⁴ Revenue Estimating Conference Impact Conference Results from January 9, 2014, which can be found at: <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/page6-7.pdf>. (Last visited February 25, 2014.)

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 220.14, 220.63.

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

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

Recommended CS by Appropriations Subcommittee on Finance and Tax on April 2, 2014:

The committee substitute changes the term “tax year” to “taxable year,” which is the proper statutory term.

B. Amendments:

None.



978618

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2014	.	
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Appropriations Subcommittee on Finance and Tax (Hukill)
recommended the following:

Senate Amendment

Delete line 32

and insert:

Section 3. This act applies to taxable years beginning on
or

By Senator Hukill

8-00216-14

2014134__

1 A bill to be entitled
 2 An act relating to tax-exempt income; amending s.
 3 220.14, F.S.; increasing the amount of income that is
 4 exempt from the corporate income tax; amending s.
 5 220.63, F.S.; increasing the amount of income that is
 6 exempt from the franchise tax imposed on banks and
 7 savings associations; providing applicability;
 8 providing an effective date.

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

12 Section 1. Subsection (1) of section 220.14, Florida
 13 Statutes, is amended to read:

14 220.14 Exemption.—

15 (1) In computing a taxpayer's liability for tax under this
 16 code, ~~\$75,000 there shall be exempt from the tax \$50,000~~ of net
 17 income as defined in s. 220.12 is exempt from the tax or such
 18 lesser amount as will, without increasing the taxpayer's federal
 19 income tax liability, provide the state with an amount under
 20 this code which is equal to the maximum federal income tax
 21 credit which may be available from time to time under federal
 22 law.

23 Section 2. Subsection (3) of section 220.63, Florida
 24 Statutes, is amended to read:

25 220.63 Franchise tax imposed on banks and savings
 26 associations.—

27 (3) For purposes of this part, the franchise tax base is
 28 ~~shall be~~ adjusted federal income, as defined in s. 220.13,
 29 apportioned to this state, plus nonbusiness income allocated to

Page 1 of 2

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

8-00216-14

2014134__

30 this state pursuant to s. 220.16, less the deduction allowed in
 31 subsection (5) and less \$75,000 ~~\$50,000~~.

32 Section 3. This act applies to tax years beginning on or
 33 after January 1, 2015.

34 Section 4. This act shall take effect January 1, 2015.

Page 2 of 2

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 312

INTRODUCER: Appropriations Subcommittee on Finance and Tax; Community Affairs Committee; and Senator Simpson and others

SUBJECT: Agriculture

DATE: April 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
3.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Fav/CS
4.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 312 allows property appraisers to approve late-filed applications for agricultural classification when extenuating circumstances exist.

The bill expands the definition of “livestock” to include aquacultural species certified pursuant to chapter 597. It also allows agricultural land to retain an agricultural classification when the land owner participates in a water retention program sponsored by a water management district or the Florida Department of Environmental Protection, and requires that these lands be assessed as nonproductive agricultural lands.

The bill also expands the sales tax exemption for certain farm equipment to include:

- Power farm equipment used in the storage of raw products on the farm;
- Irrigation equipment, including replacement parts and accessories;
- Repairs of power farm equipment and irrigation equipment; and
- The portion of the sales price below \$20,000 of trailers that weigh 12,000 pounds or less, used in agricultural production and transportation of farm products.

The Revenue Estimating Conference has determined the provisions of this bill will reduce General Revenue Fund receipts by \$13.6 million in Fiscal Year 2014-2015, with a recurring

impact of \$15 million, and the bill will reduce local property taxes by \$100,000 in Fiscal Year 2015-2016 and future years.

II. Present Situation:

Property Valuation in Florida

The Florida Constitution requires that all property be assessed at just value (fair market value) for ad valorem tax purposes. However, sections 3, 4, and 6, Article VII of the Florida Constitution, provide for specified assessment limitations, property classifications, and exemptions. After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, the assessed value is determined. The assessed value is then reduced by any applicable exemptions to produce the taxable value.

Agricultural Property Classification

Section 193.461, F.S., provides that each county's property appraiser shall, for assessment purposes on an annual basis, classify all lands within a county as agricultural or nonagricultural. For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes." Agricultural purposes include, but are not limited to: horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture, including algaculture; sod farming; and all forms of farm products and farm production.

Property appraisers are required to reclassify lands as nonagricultural when they are diverted from an agricultural to a nonagricultural use or no longer utilized for agricultural purposes.

In response to the spread of citrus canker, the 2000 Legislature authorized lands to retain agricultural classification and be assessed at a de minimis value of no more than \$50 per acre if the owner took the land out of production due to a state or federal eradication or quarantine program. These lands retain the agricultural classification and de minimis assessment as long as they are not used to produce income or used for a nonagricultural use.

Property owners must submit applications for agricultural classification by March 1 of each year.¹ If a property owner submits an application after March 1, the property owner must petition the value adjustment board and show extenuating circumstances that warrant granting the classification; the property appraiser is not authorized to review late applications.²

Water Retention Programs

The Legislature has encouraged and supported development of creative public-private partnerships and programs that facilitate or further the restoration of the surface water resources of the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed. Since 2005, the South Florida Water Management District has been working with agencies, environmental organizations, land owners, and researchers to enhance opportunities for

¹ Section 193.461(3)(a), F.S.

² *Id.*

storing excess surface water on private and public lands. Over the years, these efforts have made thousands of acre-feet of water retention and storage available.

Water retention systems serve to control storm water volume before it is discharged to surface waters or floods urban areas. The systems also act to minimize point source and non-point source pollution prior to its entry into streams, natural wetlands, and other receiving waters. These systems vary widely in their pollutant removal capabilities, but can effectively remove a number of contaminants with removal rates as high as 95 and 99 percent for some non-dissolved nutrients and pesticides, respectively.

Eight Florida ranchers participated in a \$6 million pilot program run by the South Florida Water Management District called the “Florida Ranchlands Environmental Services Project.” The program, which ran from 2006 to 2011, paid ranchers to construct water retention areas on their properties that acted as natural phosphorous filters. In addition to construction costs, the program paid ranchers for annual maintenance and a participation fee for three years. The district also created a \$3 million water farming pilot project that paid citrus growers to build systems to store excess water on fallow citrus land before it can flow into estuaries.

When an agricultural landowner enters into an agreement with a water management district or the Department of Environmental Protection for water storage or water quality improvements on private land, the extent of existing wetlands and other surface waters must be established in the agreement.³This “baseline determination” is later needed so that any increase in wetlands or surface water as a result of the project does not subject the landowner to increased regulatory requirements.

As part of Florida’s pollution control requirements, Florida establishes the amount of a pollutant that a water body may receive without exceeding water quality standards.⁴ The Department of Agriculture and Consumer Services is authorized to establish best management practices to reduce agricultural pollutants.⁵

Sales and Use Tax

Florida provides the following sales tax exemptions relating to livestock:

- The gross proceeds from the sale of livestock directly from the farm;⁶
- The use of livestock or livestock products by the farmer;⁷
- Disinfectants, insecticides and pesticides used in dairy barns or on poultry farms for the purpose of protecting livestock;⁸ and
- The sale of feed for livestock.⁹

³ Section 373.4591, F.S.

⁴ See Section 403.067(6)(a)2., F.S. (describing the total maximum daily load calculation)

⁵ Section 403.067(7)(c), F.S.

⁶ Section 212.07(5), F.S.

⁷ *Id.*

⁸ Section 212.08(5)(a), F.S.

⁹ Section 212.08(7)(d), F.S.

“Livestock” is defined as “all animals of the equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, ostriches, and other grazing animals raised for commercial purposes[,] . . . [and] fish raised for commercial purposes.”¹⁰

Florida provides a sales tax exemption for certain farm equipment. In order to qualify, the equipment must be “power farm equipment” used exclusively on a farm or in a forest for the agricultural production of crops or for fire prevention and suppression work with respect to such crops. The exemption applies to the “sale, rental, lease, use, consumption or storage for use in this state of power farm equipment”; the provision does not exempt the repair of power farm equipment.

“Power farm equipment” is limited to moving or stationary equipment that contains within itself the means for its own propulsion or depends upon an external power source to perform its functions. Sales of component parts of power farm equipment are not exempt unless the component part is, by itself, power farm equipment. For example, the sale of a complete irrigation supply system would be exempt as the sale of power farm equipment; however, the sale of a pipe that will be used to update an existing system is not exempt.

Agricultural production is limited to practices necessary to accomplish the production of plants and animals through the harvest phase. Power farm equipment used in activities that occur after harvesting, such as processing, is not exempt.

III. Effect of Proposed Changes:

Section 1 allows property appraisers to review late applications for agricultural classification and approve the application if the property owner demonstrates that he or she was unable to apply timely or otherwise demonstrates extenuating circumstances for not having filed in a timely manner.

The bill also allows agricultural lands to be used in water retention programs sponsored by the Department of Environmental Protection or a water management district without losing their agricultural classification. These lands will be assessed as nonproductive agricultural lands. If these lands are diverted to a nonagricultural use, they will be subject to normal assessment procedures.

Section 2 amends the definition of “livestock” to include all aquaculture species that are certified under chapter 597 and raised for commercial purposes.

The bill also amends the definition of “agricultural production” to include the storage of raw products on the farm, thereby expanding the exemption for power farm equipment to include certain equipment used in the storage of agricultural products.

Section 3 amends the exemption for farm equipment to include:

- Irrigation equipment;
- The repair of power farm equipment and irrigation equipment;

¹⁰ Section 212.02(29), F.S.

- Replacement parts and accessories for power farm equipment or irrigation equipment; and
- The portion of a sales price below \$20,000 for trailers weighing 12,000 pounds or less that are purchased by a farmer and used by the farmer to transport farm products from his or her farm to the first point of sale.

The bill also exempts stakes used by a farmer to support plants during agricultural production.

Section 4 allows a landowner that enters into an agreement to implement best management practices with the Department of Agriculture and Consumer Services to establish a baseline of wetlands and other surface waters, at the landowner's expense, and document the baseline in the best management practices implementation agreement. The determination will serve as the baseline for future agricultural pollutant analysis.

Section 5 provides that the bill will take effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.

The bill provides property tax and sales tax exemptions that will reduce municipalities' and counties' property tax and sales tax collections, thereby reducing their revenue-raising authority. However, an exemption from the mandates provision may apply because the reduction in local governments' revenue-raising authority may result in an insignificant fiscal impact.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that the provisions of CS/CS/SB 312 will reduce General Revenue receipts by \$13.6 million in Fiscal Year 2014-2015, with a recurring impact of \$15 million, and the bill will reduce local property taxes by \$100,000 in Fiscal Year 2015-2016 and future years.

B. Private Sector Impact:

Under the conditions described in the bill, participants in water retention programs may have reduced ad valorem tax liability for flooded lands. The legislation allows agricultural producers to benefit from reduced tax liability for purchases of specified agricultural items, such as parts and repairs for irrigation equipment.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 193.461, 212.02, 212.08, and 373.4591.

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

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

Recommended CS/CS by Appropriations Subcommittee on Finance and Tax on April 2, 2014:

The CS/CS:

- Allows property appraisers to approve late-filed applications for agricultural classification under certain circumstances;
- Provides that agricultural land used in a dispersed water storage program will be assessed as nonproductive agricultural land, and will be subject to statutory assessment procedures if it is diverted to a nonagricultural use;
- Expands the definition of “livestock” to include all aquaculture certified under chapter 597;
- Limits new the sales tax exemption for power farm equipment used for storage to equipment used to store raw products on the farm;
- Limits the new sales tax exemption for trailers use for agricultural purposes to the portion of sales prices below \$20,000 for trailers weighing 12,000 pounds or less;
- Creates a sales tax exemption for stakes used by a farmer to support plants during agricultural production; and
- Expands the ability of a landowner that participates in water storage programs to use a baseline determination of wetlands and other surface waters for future regulatory

requirements to also allow a baseline to be used for best management practices implementation agreements regarding agricultural pollutants.

CS by Community Affairs on January 8, 2014:

The CS classifies flooded lands as agricultural lands for property tax valuation purposes, instead of classifying the use of such lands as nonincome-producing. Flooded lands in recognized water storage programs, or successor programs, would be assessed at a de minimis value, on a single year methodology, and this provision would not expire.

The CS removes provisions that would have defined “qualified agricultural producer,” and authorized the Department of Revenue to issue certificates for agricultural sales and use tax exemptions.

B. Amendments:

None.



312276

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2014	.	
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Appropriations Subcommittee on Finance and Tax (Ring)
recommended the following:

1 **Senate Amendment (with title amendment)**

2
3 Delete everything after the enacting clause
4 and insert:

5 Section 1. Paragraph (a) of subsection (3) and subsection
6 (7) of section 193.461, Florida Statutes, are amended to read:

7 193.461 Agricultural lands; classification and assessment;
8 mandated eradication or quarantine program.—

9 (3) (a) ~~No~~ Lands may not ~~shall~~ be classified as agricultural



312276

10 lands unless a return is filed on or before March 1 of each
11 year. The property appraiser, before so classifying such lands,
12 may require the taxpayer or the taxpayer's representative to
13 furnish the property appraiser such information as may
14 reasonably be required to establish that such lands were
15 actually used for a bona fide agricultural purpose. Failure to
16 make timely application by March 1 shall constitute a waiver for
17 1 year of the privilege herein granted for agricultural
18 assessment. However, an applicant who is qualified to receive an
19 agricultural classification who fails to file an application by
20 March 1 must ~~may~~ file an application for the classification with
21 the property appraiser within 25 days after the property
22 appraiser mails the notices required under s. 194.011(1). Upon
23 receipt of sufficient evidence, as determined by the property
24 appraiser, demonstrating that the applicant was unable to apply
25 for the classification in a timely manner or otherwise
26 demonstrating extenuating circumstances judged by the property
27 appraiser to warrant granting the classification, the property
28 appraiser may grant the classification. If the applicant fails
29 to produce sufficient evidence demonstrating that the applicant
30 was unable to apply for the classification in a timely manner or
31 otherwise demonstrating extenuating circumstances as judged by
32 the property appraiser, the applicant ~~and~~ may file, pursuant to
33 s. 194.011(3), a petition with the value adjustment board
34 requesting that the classification be granted. The petition may
35 be filed at any time during the taxable year on or before the
36 25th day following the mailing of the notice by the property
37 appraiser as provided in s. 194.011(1). Notwithstanding ~~the~~
38 ~~provisions of~~ s. 194.013, the applicant must pay a nonrefundable



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39 fee of \$15 upon filing the petition. Upon reviewing the
40 petition, if the person is qualified to receive the
41 classification and demonstrates particular extenuating
42 circumstances judged by the ~~property appraiser or the~~ value
43 adjustment board to warrant granting the classification, ~~the~~
44 ~~property appraiser or~~ the value adjustment board may grant the
45 classification for the current year. The owner of land that was
46 classified agricultural in the previous year and whose ownership
47 or use has not changed may reapply on a short form as provided
48 by the department. The lessee of property may make original
49 application or reapply using the short form if the lease, or an
50 affidavit executed by the owner, provides that the lessee is
51 empowered to make application for the agricultural
52 classification on behalf of the owner and a copy of the lease or
53 affidavit accompanies the application. A county may, at the
54 request of the property appraiser and by a majority vote of its
55 governing body, waive the requirement that an annual application
56 or statement be made for classification of property within the
57 county after an initial application is made and the
58 classification granted by the property appraiser. Such waiver
59 may be revoked by a majority vote of the governing body of the
60 county.

61 (7) (a) Lands classified for assessment purposes as
62 agricultural lands which are taken out of production by a ~~any~~
63 state or federal eradication or quarantine program shall
64 continue to be classified as agricultural lands for the duration
65 of such program or successor programs. Lands under these
66 programs which are converted to fallow~~r~~ or otherwise nonincome-
67 producing uses shall continue to be classified as agricultural



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68 lands and shall be assessed at a de minimis value of up to no
69 ~~more than~~ \$50 per acre, on a single year assessment methodology;
70 however, lands converted to other income-producing agricultural
71 uses permissible under such programs shall be assessed pursuant
72 to this section. Land under a mandated eradication or quarantine
73 program which is diverted from an agricultural to a
74 nonagricultural use shall be assessed under s. 193.011.

75 (b) Lands classified for assessment purposes as
76 agricultural lands which participate in a dispersed water
77 storage program pursuant to a contract with the Department of
78 Environmental Protection or a water management district which
79 requires flooding of land shall continue to be classified as
80 agricultural lands for the duration of the inclusion of the
81 lands in such program or successor programs and shall be
82 assessed as nonproductive agricultural lands. Land under a
83 dispersed water storage program which is diverted to a
84 nonagricultural use shall be assessed under s. 193.011.

85 Section 2. Subsections (29) and (32) of section 212.02,
86 Florida Statutes, are amended to read:

87 212.02 Definitions.—The following terms and phrases when
88 used in this chapter have the meanings ascribed to them in this
89 section, except where the context clearly indicates a different
90 meaning:

91 (29) "Livestock" includes all animals of the equine,
92 bovine, or swine class, including goats, sheep, mules, horses,
93 hogs, cattle, ostriches, and other grazing animals raised for
94 commercial purposes. The term "livestock" shall also include
95 all aquaculture species that are certified under chapter 597 and
96 ~~include fish~~ raised for commercial purposes.



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97 (32) "Agricultural production" means the production of
98 plants and animals useful to humans, including the preparation,
99 planting, cultivating, or harvesting of these products or any
100 other practices necessary to accomplish production through the
101 harvest phase, including storage of raw products on the farm.

102 The term ~~and~~ includes aquaculture, horticulture, floriculture,
103 viticulture, forestry, dairy, livestock, poultry, bees, and any
104 and all forms of farm products and farm production.

105 Section 3. Subsection (3) and paragraph (a) of subsection
106 (5) of section 212.08, Florida Statutes, are amended to read:

107 212.08 Sales, rental, use, consumption, distribution, and
108 storage tax; specified exemptions.—The sale at retail, the
109 rental, the use, the consumption, the distribution, and the
110 storage to be used or consumed in this state of the following
111 are hereby specifically exempt from the tax imposed by this
112 chapter.

113 (3) EXEMPTIONS; CERTAIN FARM EQUIPMENT.—

114 (a) A ~~There shall be no tax~~ may not be imposed on the sale,
115 rental, lease, use, consumption, repair, or storage for use in
116 this state of power farm equipment or irrigation equipment,
117 including replacement parts and accessories for power farm
118 equipment or irrigation equipment, which are used exclusively on
119 a farm or in a forest in the agricultural production of crops or
120 products ~~as~~ produced by those agricultural industries included
121 in s. 570.02(1), or for fire prevention and suppression work
122 with respect to such crops or products. Harvesting may not be
123 construed to include processing activities. This exemption is
124 not forfeited by moving farm equipment between farms or forests.

125 (b) A tax may not be imposed on that portion of the sales



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126 price below \$20,000 for a trailer weighing 12,000 pounds or less
127 and purchased by a farmer for exclusive use in agricultural
128 production or to transport farm products from his or her farm to
129 the place where the farmer transfers ownership of the farm
130 products to another. This exemption is not forfeited by using a
131 trailer to transport the farmer's farm equipment. The exemption
132 provided under this paragraph does not apply to the lease or
133 rental of a trailer.

134 (c) The exemptions provided in paragraphs (a) and (b) are
135 ~~However, this exemption shall not be~~ allowed unless the
136 purchaser, renter, or lessee signs a certificate stating that
137 the farm equipment is to be used exclusively ~~on a farm or in a~~
138 ~~forest for agricultural production or for fire prevention and~~
139 ~~suppression,~~ as required under ~~by~~ this subsection. Possession by
140 a seller, lessor, or other dealer of a written certification by
141 the purchaser, renter, or lessee certifying the purchaser's,
142 renter's, or lessee's entitlement to an exemption permitted by
143 this subsection relieves the seller from the responsibility of
144 collecting the tax on the nontaxable amounts, and the department
145 shall look solely to the purchaser for recovery of such tax if
146 it determines that the purchaser was not entitled to the
147 exemption.

148 (5) EXEMPTIONS; ACCOUNT OF USE.—

149 (a) *Items in agricultural use and certain nets.*—~~A There are~~
150 ~~exempt from the tax~~ may not be imposed on ~~by this chapter~~ nets
151 designed and used exclusively by commercial fisheries;
152 disinfectants, fertilizers, insecticides, pesticides,
153 herbicides, fungicides, and weed killers used for application on
154 crops or groves, including commercial nurseries and home



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155 vegetable gardens, used in dairy barns or on poultry farms for
156 the purpose of protecting poultry or livestock, or used directly
157 on poultry or livestock; portable containers or movable
158 receptacles in which portable containers are placed, used for
159 processing farm products; field and garden seeds, including
160 flower seeds; nursery stock, seedlings, cuttings, or other
161 propagative material purchased for growing stock; seeds,
162 seedlings, cuttings, and plants used to produce food for human
163 consumption; cloth, plastic, and other similar materials used
164 for shade, mulch, or protection from frost or insects on a farm;
165 stakes used by a farmer to support plants during agricultural
166 production; generators used on poultry farms; and liquefied
167 petroleum gas or other fuel used to heat a structure in which
168 started pullets or broilers are raised; however, such exemption
169 is shall not be allowed unless the purchaser or lessee signs a
170 certificate stating that the item to be exempted is for the
171 exclusive use designated herein. Also exempt are cellophane
172 wrappers, glue for tin and glass (apiarists), mailing cases for
173 honey, shipping cases, window cartons, and baling wire and twine
174 used for baling hay, when used by a farmer to contain, produce,
175 or process an agricultural commodity.

176 Section 4. Section 373.4591, Florida Statutes, is amended
177 to read:

178 373.4591 Improvements on private agricultural lands.—The
179 Legislature encourages public-private partnerships to accomplish
180 water storage and water quality improvements on private
181 agricultural lands. When an agreement is entered into between a
182 water management district or the department and a private
183 landowner to establish such a partnership, a baseline condition



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184 determining the extent of wetlands and other surface waters on
185 the property shall be established and documented in the
186 agreement before improvements are constructed. When the
187 Department of Agriculture and Consumer Services and a landowner
188 agree to a plan to implement best management practices pursuant
189 to s. 403.067(7)(c), a baseline condition determining the extent
190 of wetlands and other surface waters on the property may be
191 established at the option and expense of the landowner and
192 documented in the best management practice implementation
193 agreement before improvements are constructed. The determination
194 for the baseline condition shall be conducted using the methods
195 set forth in the rules adopted pursuant to s. 373.421. The
196 baseline condition documented in the agreement shall be
197 considered the extent of wetlands and other surface waters on
198 the property for the purpose of regulation under this chapter
199 for the duration of the agreement and after its expiration.

200 Section 5. This act shall take effect July 1, 2014.

201
202 ===== T I T L E A M E N D M E N T =====

203 And the title is amended as follows:

204 Delete everything before the enacting clause
205 and insert:

206 A bill to be entitled

207 An act relating to agriculture; amending s. 193.461,
208 F.S.; authorizing a property appraiser to grant an
209 agricultural classification after the application
210 deadline upon a showing of extenuating circumstances;
211 providing that participation in certain dispersed
212 water storage programs does not change a land's



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213 agricultural classification for assessment purposes;
214 amending s. 212.02, F.S.; redefining the terms
215 "livestock" and "agricultural production"; amending s.
216 212.08, F.S.; expanding the exemption for certain farm
217 equipment from the sales and use tax imposed under ch.
218 212, F.S., to include irrigation equipment, repairs of
219 farm equipment and irrigation equipment, and certain
220 trailers; expanding the exemption for items in
221 agricultural use from the sale and use tax imposed
222 under ch. 212, F.S., to include stakes used to support
223 plants during agricultural production; amending s.
224 373.4591, F.S.; authorizing agricultural landowners to
225 establish baseline wetland and surface water
226 conditions before implementing certain best management
227 practice implementation agreements; providing an
228 effective date.

By the Committee on Community Affairs; and Senator Simpson

578-00969-14

2014312c1

1 A bill to be entitled
 2 An act relating to agriculture; amending s. 193.461,
 3 F.S.; providing that participation in certain
 4 dispersed water storage programs does not change a
 5 land's agricultural classification for assessment
 6 purposes; amending s. 212.02, F.S.; redefining the
 7 term "agricultural production" to include storage;
 8 amending s. 212.08, F.S.; expanding the exemption for
 9 certain farm equipment from the sales and use tax
 10 imposed under ch. 212, F.S., to include repairs of
 11 such equipment and trailers that are used for certain
 12 purposes; providing an effective date.
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Subsection (7) of section 193.461, Florida
 17 Statutes, is amended to read:
 18 193.461 Agricultural lands; classification and assessment;
 19 mandated eradication or quarantine program.—
 20 (7) (a) Lands classified for assessment purposes as
 21 agricultural lands which are taken out of production by a ~~any~~
 22 state or federal eradication or quarantine program shall
 23 continue to be classified as agricultural lands for the duration
 24 of such program or successor programs. Lands under these
 25 programs which are converted to fallow, or otherwise nonincome-
 26 producing uses shall continue to be classified as agricultural
 27 lands and shall be assessed at a de minimis value of up to ~~no~~
 28 ~~more than~~ \$50 per acre, on a single year assessment methodology;
 29 however, lands converted to other income-producing agricultural

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578-00969-14

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30 uses permissible under such programs shall be assessed pursuant
 31 to this section. Land under a mandated eradication or quarantine
 32 program which is diverted from an agricultural to a
 33 nonagricultural use shall be assessed under s. 193.011.
 34 (b) Lands classified for assessment purposes as
 35 agricultural lands which participate in a dispersed water
 36 storage program pursuant to a contract with the Department of
 37 Environmental Protection or a water management district which
 38 requires flooding of land shall continue to be classified as
 39 agricultural lands for the duration of the inclusion of the
 40 lands in such program or successor programs and shall be
 41 assessed at a de minimis value, on a single year assessment
 42 methodology.
 43 Section 2. Subsection (32) of section 212.02, Florida
 44 Statutes, is amended to read:
 45 212.02 Definitions.—The following terms and phrases when
 46 used in this chapter have the meanings ascribed to them in this
 47 section, except where the context clearly indicates a different
 48 meaning:
 49 (32) "Agricultural production" means the production of
 50 plants and animals useful to humans, including the preparation,
 51 planting, cultivating, ~~or~~ harvesting, or storage of these
 52 products or any other practices necessary to accomplish
 53 production through the harvest and storage phase, and includes
 54 aquaculture, horticulture, floriculture, viticulture, forestry,
 55 dairy, livestock, poultry, bees, and any and all forms of farm
 56 products and farm production.
 57 Section 3. Subsection (3) of section 212.08, Florida
 58 Statutes, is amended to read:

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59 212.08 Sales, rental, use, consumption, distribution, and
 60 storage tax; specified exemptions.—The sale at retail, the
 61 rental, the use, the consumption, the distribution, and the
 62 storage to be used or consumed in this state of the following
 63 are hereby specifically exempt from the tax imposed by this
 64 chapter.

65 (3) EXEMPTIONS; CERTAIN FARM EQUIPMENT.—There shall be no
 66 tax on the sale, rental, lease, use, consumption, repair, or
 67 storage for use in this state of power farm equipment and
 68 irrigation equipment, including replacement parts and
 69 accessories for such equipment, which are used exclusively on a
 70 farm or in a forest in the agricultural production of crops or
 71 products ~~as~~ produced by those agricultural industries included
 72 in s. 570.02(1), or for fire prevention and suppression work
 73 with respect to such crops or products. Trailers used in
 74 agricultural production and the transportation of farm products
 75 from the farm to the first point of sale are also exempt from
 76 such tax. Harvesting may not be construed to include processing
 77 activities. This exemption is not forfeited by moving farm
 78 equipment between farms or forests. However, this exemption may
 79 ~~shall~~ not be allowed unless the purchaser, renter, or lessee
 80 signs a certificate stating that the farm equipment is to be
 81 used exclusively on a farm or in a forest for agricultural
 82 production or for fire prevention and suppression, as required
 83 by this subsection. Possession by a seller, lessor, or other
 84 dealer of a written certification by the purchaser, renter, or
 85 lessee certifying the purchaser's, renter's, or lessee's
 86 entitlement to an exemption permitted by this subsection
 87 relieves the seller from the responsibility of collecting the

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578-00969-14

2014312c1

88 tax on the nontaxable amounts, and the department shall look
 89 solely to the purchaser for recovery of such tax if it
 90 determines that the purchaser was not entitled to the exemption.
 91 Section 4. This act shall take effect July 1, 2014.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 362

INTRODUCER: Senator Bradley

SUBJECT: Hurricane Preparedness

DATE: April 2, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Baye</u>	<u>Hrdlicka</u>	<u>CM</u>	Favorable
2.	<u>Cote</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 362 provides for a state and local sales tax exemption for a 12-day period from June 1 through June 12, 2014, for the purchase of items typically associated with hurricane preparedness and for the purchase of certain items used to protect a structure from possible damage resulting from a hurricane or tropical storm.

The bill appropriates \$221,400 from the General Revenue Fund to the Department of Revenue to administer this act.

The Revenue Estimating Conference estimated the total impact of this bill to be nonrecurring, negative \$3.6 million for Fiscal Year 2014-2015. The nonrecurring fiscal impact is estimated to be: General Revenue Fund (\$2.9 million); State Trust Funds (insignificant); and local (\$700,000).¹

II. Present Situation:

Chapter 212, F.S., levies a six percent sales and use tax on most sales of tangible personal property and a limited number of services. Section 212.08, F.S., provides for specific exemptions from the sales and use tax imposed by the chapter.

Local governments are authorized to levy several types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The rate of the discretionary sales surtax depends on the county, while some counties do not have a surtax.² Rates currently range from one-half percent to one

¹ Office of Economic and Demographic Research, *Revenue Estimating Conference*, <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/Impact1120.pdf> (last visited 1/29/14).

² Florida Department of Revenue, *Florida's Discretionary Sales Surtax*, <http://dor.myflorida.com/dor/forms/current/gt800019.pdf> (last visited Jan. 22, 2014).

and one-half percent.³ The surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property.⁴

The Legislature has approved sales tax holidays for certain hurricane preparedness items in the past. In 2005, 2006, and 2007 the state established 12-day periods where items below certain thresholds were exempt from tax. The type and value of exempt items has varied. In 2005 and 2007 the hurricane preparedness holidays ran from June 1 through June 12, and in 2006 the holiday was from May 21 through June 1.

III. Effect of Proposed Changes:

The bill provides an exemption from state and local sales tax for specified items related to hurricane preparedness during a period of 12 consecutive days beginning on June 1, 2014. The timing of this period coincides with the start of hurricane season.⁵ The exempted items are:

- 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 self-contained first-aid kit selling for \$30 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, 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.

The bill also authorizes that the Department of Revenue to adopt rules to implement the exemption period of this bill.

The bill appropriates \$221,400 from the General Revenue Fund to the Department of Revenue for purposes of administering this bill.

This bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of

³ Florida Department of Revenue, *Discretionary Sales Surtax Information*, http://dor.myflorida.com/dor/forms/current/dr15dss_1113.pdf (last visited Jan. 22, 2014).

⁴ Section 212.054(2)(b)1., F.S.

⁵ National Oceanic & Atmospheric Administration, *Frequently Asked Questions*, <http://www.aoml.noaa.gov/hrd/tcfaq/G1.html> (last visited Jan. 22, 2014).

doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.

The bill provides a sales tax exemption that will reduce the municipalities' and counties' local option sales tax collections over a three-day period, thereby reducing their revenue-raising authority. However, an exemption from the mandates provision may apply because the reduction in local governments' revenue-raising authority may result in an insignificant fiscal impact.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimated the total impact of SB 362 to be nonrecurring, negative \$3.6 million for Fiscal Year 2014-2015. The nonrecurring impact is estimated to be: General Revenue Fund (\$2.9 million); State Trust Funds (insignificant); and local (\$700,000).⁶

B. Private Sector Impact:

During the period of June 1-12, 2014, the enumerated hurricane preparedness items can be purchased for six to seven and one-half percent less, depending on the local discretionary sales surtax rate. The timing of the tax-free period will provide an incentive for Floridians to save money and to prepare themselves prior to the usual heightened tropical storm and hurricane threat period.

C. Government Sector Impact:

The bill currently appropriates \$221,400 from the General Revenue Fund to the Department of Revenue for the purposes of administering this act.

Department of Revenue analysis projects that this bill will have an impact of \$280,912 to pay for printing and mailing tax information publications to the 566,000 sales and use tax dealers.⁷

⁶ Office of Economic and Demographic Research, *Revenue Estimating Conference*, <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/Impact1120.pdf> (last visited 1/29/14).

⁷ Department of Revenue, *Senate Bill 362 Agency Analysis* (Dec. 31, 2013).

VI. Technical Deficiencies:

The Department of Revenue analysis and Revenue Estimating Conference state that first aid kits are already exempt from sales tax under s. 212.08(2)(a), F.S.⁸

VII. Related Issues:

None.

VIII. Statutes Affected:**IX. This bill creates an undesignated section of Florida law. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.

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

⁸ Department of Revenue, *Senate Bill 362 Agency Analysis* (Dec. 31, 2013); Revenue Estimating Conference, <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/page25-27.pdf> (last visited Jan. 22, 2014).

By Senator Bradley

7-00514-14

2014362__

A bill to be entitled

An act relating to hurricane preparedness; providing an exemption from the sales and use tax for sales of certain tangible personal property for a certain period for certain purposes; providing for expiration; authorizing the Department of Revenue to adopt rules; providing an appropriation; providing an effective date.

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

Section 1. Hurricane preparedness tax suspension.-

(1) Effective June 1, 2014, through June 12, 2014, no tax levied pursuant to chapter 212, Florida Statutes, shall be collected on the sale of:

(a) A portable self-powered light source selling for \$20 or less.

(b) A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less.

(c) A tarpaulin or other flexible waterproof sheeting selling for \$50 or less.

(d) A self-contained first-aid kit selling for \$30 or less.

(e) A ground anchor system or tie-down kit selling for \$50 or less.

(f) A gas or diesel fuel tank selling for \$25 or less.

(g) A package of AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less.

(h) A nonelectric food storage cooler selling for \$30 or

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less.

(i) 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.

(2) The Department of Revenue may adopt rules to implement this section.

(3) This section expires September 30, 2014.

Section 2. The sum of \$221,400 is appropriated from the General Revenue Fund to the Department of Revenue for purposes of administering this act.

Section 3. This act shall take effect upon becoming a law.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 474

INTRODUCER: Appropriations Subcommittee on Finance and Tax and Senator Simpson

SUBJECT: Community Contribution Tax Credit Program

DATE: April 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 474 delays for three years the expiration of the Community Contribution Tax Credit Program. Under this program, businesses that make contributions to eligible projects may receive tax credits, equal to 50 percent of the contribution, which can be taken against sales and use taxes, corporate income taxes, and insurance premium taxes.

The Revenue Estimating Conference has determined that delaying the expiration of the Community Contribution Tax Credit Program will reduce general revenue by \$12.7 million and local revenue by \$1.3 million in Fiscal Years 2015-2016 through 2017-2018.

II. Present Situation:

Community Contribution Tax Credit Program

The Community Contribution Tax Credit Program (Program) was established in 1980 by the Florida Legislature to encourage private sector participation in community revitalization and housing projects.¹ The Program offers tax credits, in the form of refunds, to persons who make contributions to sponsors that have been approved to participate in the program. Eligible project sponsors² under the Program include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards. Eligible projects³ include the construction, improvement or rehabilitation of housing, commercial, industrial or public facilities, and projects that promote

entrepreneurial or job development opportunities for low-income persons. A community contribution must be in the form of cash or other liquid assets; real property; goods or inventory; or other physical resources as identified by the Department of Economic Opportunity (DEO).⁴ Eligible projects that construct or rehabilitate housing for low-income or very-low-income households are not limited to particular locations; other eligible projects must be located in an area designated as an enterprise zone or a Front Porch Florida Community, unless the project is designed to provide high-speed broadband capabilities which include coverage of a rural enterprise zone, in which case the project's infrastructure can be located in any area of a rural county.

The DEO is responsible for marketing the Program¹ in consultation with the Florida Housing Finance Corporation and other statewide and regional housing and financial intermediaries.² The DEO is also responsible for administering the Program by reviewing sponsor project proposals and tax credit applications.³ There are 122 sponsors approved to participate in the Program for the 2013-2014 fiscal year.⁴ After the taxpayer receives approval for community contribution tax credits, it must claim the credit from the Department of Revenue (DOR).

The tax credits are equal to 50 percent of the amount donated up to \$200,000 annually.⁵ The tax credit may be applied toward the donor's sales and use, corporate, or insurance premium tax obligations.⁶ The taxpayer may only apply the credits toward one tax obligation. Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years.⁷ Unused credits against sales taxes may be carried forward for three years.⁸

The total amount of tax credits, which may be granted for the Community Contribution Tax Credit Program, is \$10.5 million annually for projects that provide homeownership opportunities for low-income and very-low-income households and \$3.5 million for all other projects.⁹ During Fiscal Year 2012-2013, 345 tax credit applications in 36 local governments were approved by the DEO.¹⁰

The Community Contribution Tax Credit Program has grown substantially since its inception. The program began in 1980 with corporate income tax credits limited to \$3 million annually (the cap) and a 1986 expiration date.¹¹ In 1984, its expiration was delayed to 1996 and the credits were extended to insurance premium tax.¹² In 1994, the credit cap was reduced to \$2 million annually and the program's expiration was delayed to 2005.¹³ In 1998, the tax credit cap was

¹ For information on becoming a sponsor or donor, see Florida Department of Economic Opportunity, *CCTCP Program Overview*, available at http://www.floridajobs.org/Community/CCTCP_ProgramOverview.pdf (last visited Jan. 9, 2014).

² Section 220.183(4), F.S.

³ DEO approves projects for a fiscal year. Sponsors can apply for re-certification at the end of each state fiscal year.

⁴ E-mail from Florida Department of Economic Opportunity, Community Contribution Program Staff (Jan. 9, 2014).

⁵ Sections 220.183 (1)(a) and (b), F.S.; 212.08(5)(p).

⁶ See ss. 212.08(5)(p), F.S.; 220.183, F.S.; and 624.5105, F.S.

⁷ Sections 220.183(1)(e), F.S.; and 624.5105, F.S.

⁸ Section 212.08(5)(p)1.b., F.S.

⁹ Sections 212.08(5)(p)1.e., F.S.; 220.183(1)(c), F.S.; and 624.5105(1)(c), F.S.

¹⁰ Department of Economic Opportunity, *supra* note 8.

¹¹ Ch. 80-249, L.O.F.

¹² Ch. 84-356, L.O.F.

¹³ Ch. 94-136, L.O.F.

increased to \$5 million,¹⁴ and, in 1999, the cap was doubled to \$10 million.¹⁵ In 2001, the credit was extended to sales and use tax.¹⁶ In 2005, the cap was increased to \$12 million, the program's expiration date was delayed to 2015, and a portion of the program was set aside for non-housing programs.¹⁷ In 2006, the credit cap was increased to its current \$14 million level.¹⁸ In recent years, this cap has been reached every year.

III. Effect of Proposed Changes:

Section 1 amends s. 212.08, F.S., to delay the expiration date of the application of the community contribution tax credit against the sales and use tax to June 30, 2018.

Section 2 amends s. 220.183, F.S., to delay the expiration date of the application of the community contribution tax credit against the corporate income tax to June 30, 2018.

Section 3 amends s. 624.5105, F.S., to delay the expiration date of the application of the community contribution tax credit against the insurance premium tax to June 30, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None

C. Trust Funds Restrictions:

None

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that delaying the expiration of the Community Contribution Tax Credit Program will reduce general revenue by \$12.7 million and local revenue by \$1.3 million in Fiscal Years 2015-2016 through 2017-2018.

B. Private Sector Impact:

Eligible project sponsors in the Community Contribution Tax Credit Program will continue to receive contributions through 2018. Likewise, taxpayers will continue to

¹⁴ Ch. 98-219, L.O.F.

¹⁵ Ch. 99-265, L.O.F.

¹⁶ Ch 2001-201, L.O.F.

¹⁷ Ch. 2005-282, L.O.F.

¹⁸ Ch. 2006-78, L.O.F.

receive tax credits for their contributions. The total amount of tax credits that may be granted annually is \$14 million.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.08, 220.183, and 624.5105, F.S.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS by Appropriations Subcommittee on Finance and Tax on April 2, 2014:

The committee substitute extends the Community Contribution Tax Credit program by three years, instead of ten years as provided in the originally filed bill.

B. Amendments:

None.



207962

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Ring)
recommended the following:

Senate Amendment

Delete lines 241 - 257
and insert:

5. Expiration.—This paragraph expires June 30, 2018 ~~2015~~;
however, any accrued credit carryover that is unused on that
date may be used until the expiration of the 3-year carryover
period for such credit.

Section 2. Subsection (5) of section 220.183, Florida
Statutes, is amended to read:



207962

11 220.183 Community contribution tax credit.-

12 (5) EXPIRATION.—The provisions of this section, except
13 paragraph (1) (e), ~~shall~~ expire and are ~~be~~ void on June 30, 2018
14 2015.

15 Section 3. Subsection (6) of section 624.5105, Florida
16 Statutes, is amended to read:

17 624.5105 Community contribution tax credit; authorization;
18 limitations; eligibility and application requirements;
19 administration; definitions; expiration.—

20 (6) EXPIRATION.—The provisions of this section, except
21 paragraph (1) (e), ~~shall~~ expire and are ~~be~~ void on June 30, 2018

By Senator Simpson

18-00416-14

2014474__

A bill to be entitled

An act relating to the community contribution tax credit program; amending ss. 212.08, 220.183, and 624.5105, F.S.; postponing the expiration date applicable to the granting of the community contribution tax credit against the sales and use tax, corporate income tax, and insurance premium tax for contributions and donations to eligible sponsors of revitalization and housing projects approved by the Department of Economic Opportunity; providing an effective date.

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

Section 1. Paragraph (p) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(p) *Community contribution tax credit for donations.*—

1. Authorization.—Persons who are registered with the department under s. 212.18 to collect or remit sales or use tax and who make donations to eligible sponsors are eligible for tax credits against their state sales and use tax liabilities as provided in this paragraph:

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a. The credit shall be computed as 50 percent of the person's approved annual community contribution.

b. The credit shall be granted as a refund against state sales and use taxes reported on returns and remitted in the 12 months preceding the date of application to the department for the credit as required in sub-subparagraph 3.c. If the annual credit is not fully used through such refund because of insufficient tax payments during the applicable 12-month period, the unused amount may be included in an application for a refund made pursuant to sub-subparagraph 3.c. in subsequent years against the total tax payments made for such year. Carryover credits may be applied for a 3-year period without regard to any time limitation that would otherwise apply under s. 215.26.

c. A person may not receive more than \$200,000 in annual tax credits for all approved community contributions made in any one year.

d. All proposals for the granting of the tax credit require the prior approval of the Department of Economic Opportunity.

e. The total amount of tax credits which may be granted for all programs approved under this paragraph, s. 220.183, and s. 624.5105 is \$10.5 million annually for projects that provide homeownership opportunities for low-income households or very-low-income households as those terms are defined in s. 420.9071~~(19)~~ and ~~(20)~~ and \$3.5 million annually for all other projects.

f. A person who is eligible to receive the credit provided ~~for~~ in this paragraph, s. 220.183, or s. 624.5105 may receive the credit only under ~~the~~ one section of the person's choice.

2. Eligibility requirements.—

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59 a. A community contribution by a person must be in the
 60 following form:
 61 (I) Cash or other liquid assets;
 62 (II) Real property;
 63 (III) Goods or inventory; or
 64 (IV) Other physical resources ~~as~~ identified by the
 65 Department of Economic Opportunity.

66 b. All community contributions must be reserved exclusively
 67 for use in a project. As used in this sub-subparagraph, the term
 68 "project" means ~~any~~ activity undertaken by an eligible sponsor
 69 which is designed to construct, improve, or substantially
 70 rehabilitate housing that is affordable to low-income households
 71 or very-low-income households as those terms are defined in s.
 72 420.9071(19) ~~and (28)~~; designed to provide commercial,
 73 industrial, or public resources and facilities; or designed to
 74 improve entrepreneurial and job-development opportunities for
 75 low-income persons. A project may be the investment necessary to
 76 increase access to high-speed broadband capability in rural
 77 communities with enterprise zones, including projects that
 78 result in improvements to communications assets that are owned
 79 by a business. A project may include the provision of museum
 80 educational programs and materials that are directly related to
 81 a ~~any~~ project approved between January 1, 1996, and December 31,
 82 1999, and located in an enterprise zone designated pursuant to
 83 s. 290.0065. This paragraph does not preclude projects that
 84 propose to construct or rehabilitate housing for low-income
 85 households or very-low-income households on scattered sites.
 86 With respect to housing, contributions may be used to pay the
 87 following eligible low-income and very-low-income housing-

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88 related activities:
 89 (I) Project development impact and management fees for low-
 90 income or very-low-income housing projects;
 91 (II) Down payment and closing costs for low-income persons
 92 and very-low-income eligible persons, as those terms are defined
 93 in s. 420.9071(19) ~~and (28)~~;
 94 (III) Administrative costs, including housing counseling
 95 and marketing fees, not to exceed 10 percent of the community
 96 contribution, directly related to low-income or very-low-income
 97 projects; and
 98 (IV) Removal of liens recorded against residential property
 99 by municipal, county, or special district local governments if
 100 when satisfaction of the lien is a necessary precedent to the
 101 transfer of the property to a low-income person or very-low-
 102 income an eligible person, as those terms are defined in s.
 103 420.9071(19) ~~and (28)~~, for the purpose of promoting home
 104 ownership. Contributions for lien removal must be received from
 105 a nonrelated third party.

106 c. The project must be undertaken by an "eligible sponsor,"
 107 which includes:
 108 (I) A community action program;
 109 (II) A nonprofit community-based development organization
 110 whose mission is the provision of housing for low-income
 111 households or very-low-income households or increasing
 112 entrepreneurial and job-development opportunities for low-income
 113 persons;
 114 (III) A neighborhood housing services corporation;
 115 (IV) A local housing authority created under chapter 421;
 116 (V) A community redevelopment agency created under s.

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117 163.356;

118 (VI) A historic preservation district agency or

119 organization;

120 (VII) A regional workforce board;

121 (VIII) A direct-support organization as provided in s.

122 1009.983;

123 (IX) An enterprise zone development agency created under s.

124 290.0056;

125 (X) A community-based organization incorporated under

126 chapter 617 which is recognized as educational, charitable, or

127 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code

128 and whose bylaws and articles of incorporation include

129 affordable housing, economic development, or community

130 development as the primary mission of the corporation;

131 (XI) Units of local government;

132 (XII) Units of state government; or

133 (XIII) Any other agency that the Department of Economic

134 Opportunity designates by rule.

135

136 ~~In no event may~~ A contributing person may not have a financial

137 interest in the eligible sponsor.

138 d. The project must be located in an area designated an

139 enterprise zone or a Front Porch Florida Community, unless the

140 project increases access to high-speed broadband capability for

141 rural communities that have ~~with~~ enterprise zones but is

142 physically located outside the designated rural zone boundaries.

143 Any project designed to construct or rehabilitate housing for

144 low-income households or very-low-income households as those

145 terms are defined in s. 420.9071(19) ~~and (28)~~ is exempt from the

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146 area requirement of this sub-subparagraph.

147 e.(I) If, during the first 10 business days of the state

148 fiscal year, eligible tax credit applications for projects that

149 provide homeownership opportunities for low-income households or

150 very-low-income households as those terms are defined in s.

151 420.9071(19) ~~and (28)~~ are received for less than the annual tax

152 credits available for those projects, the Department of Economic

153 Opportunity shall grant tax credits for those applications and

154 ~~shall~~ grant remaining tax credits on a first-come, first-served

155 basis for ~~any~~ subsequent eligible applications received before

156 the end of the state fiscal year. If, during the first 10

157 business days of the state fiscal year, eligible tax credit

158 applications for projects that provide homeownership

159 opportunities for low-income households or very-low-income

160 households as those terms are defined in s. 420.9071(19) ~~and~~

161 ~~(28)~~ are received for more than the annual tax credits available

162 for those projects, the Department of Economic Opportunity shall

163 grant the tax credits for those applications as follows:

164 (A) If tax credit applications submitted for approved

165 projects of an eligible sponsor do not exceed \$200,000 in total,

166 the credits shall be granted in full if the tax credit

167 applications are approved.

168 (B) If tax credit applications submitted for approved

169 projects of an eligible sponsor exceed \$200,000 in total, the

170 amount of tax credits granted pursuant to sub-sub-sub-

171 subparagraph (A) shall be subtracted from the amount of

172 available tax credits, and the remaining credits shall be

173 granted to each approved tax credit application on a pro rata

174 basis.

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175 (II) If, during the first 10 business days of the state
 176 fiscal year, eligible tax credit applications for projects other
 177 than those that provide homeownership opportunities for low-
 178 income households or very-low-income households as those terms
 179 are defined in s. 420.9071(19) and (20) are received for less
 180 than the annual tax credits available for those projects, the
 181 Department of Economic Opportunity shall grant tax credits for
 182 those applications and shall grant remaining tax credits on a
 183 first-come, first-served basis for ~~any~~ subsequent eligible
 184 applications received before the end of the state fiscal year.
 185 If, during the first 10 business days of the state fiscal year,
 186 eligible tax credit applications for projects other than those
 187 that provide homeownership opportunities for low-income
 188 households or very-low-income households as those terms are
 189 defined in s. 420.9071(19) and (20) are received for more than
 190 the annual tax credits available for those projects, the
 191 Department of Economic Opportunity shall grant the tax credits
 192 for those applications on a pro rata basis.

193 3. Application requirements.-

194 a. Any eligible sponsor seeking to participate in this
 195 program must submit a proposal to the Department of Economic
 196 Opportunity which sets forth the name of the sponsor, a
 197 description of the project, and the area in which the project is
 198 located, together with such supporting information as is
 199 prescribed by rule. The proposal must also contain a resolution
 200 from the local governmental unit in which the project is located
 201 certifying that the project is consistent with local plans and
 202 regulations.

203 b. Any person seeking to participate in this program must

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204 submit an application for tax credit to the Department of
 205 Economic Opportunity which sets forth the name of the sponsor, a
 206 description of the project, and the type, value, and purpose of
 207 the contribution. The sponsor shall verify, in writing, the
 208 terms of the application and indicate its receipt of the
 209 contribution, and such ~~which~~ verification must ~~be in writing and~~
 210 accompany the application for tax credit. The person must submit
 211 a separate tax credit application to the Department of Economic
 212 Opportunity for each individual contribution that it makes to
 213 each individual project.

214 c. Any person who has received notification from the
 215 Department of Economic Opportunity that a tax credit has been
 216 approved must apply to the department to receive the refund.
 217 Application must be made on the form prescribed for claiming
 218 refunds of sales and use taxes and be accompanied by a copy of
 219 the notification. A person may submit only one application for
 220 refund to the department within a any 12-month period.

221 4. Administration.-

222 a. The Department of Economic Opportunity may adopt rules
 223 ~~pursuant to ss. 120.536(1) and 120.54~~ necessary to administer
 224 this paragraph, including rules for the approval or disapproval
 225 of proposals by a person.

226 b. The decision of the Department of Economic Opportunity
 227 must be in writing, and, if approved, the notification shall
 228 state the maximum credit allowable to the person. Upon approval,
 229 the Department of Economic Opportunity shall transmit a copy of
 230 the decision to the department ~~of Revenue~~.

231 c. The Department of Economic Opportunity shall
 232 periodically monitor all projects in a manner consistent with

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233 available resources to ensure that resources are used in
234 accordance with this paragraph; however, each project must be
235 reviewed at least once every 2 years.

236 d. The Department of Economic Opportunity shall, in
237 consultation with the statewide and regional housing and
238 financial intermediaries, market the availability of the
239 community contribution tax credit program to community-based
240 organizations.

241 5. Expiration.—This paragraph expires June 30, 2025 ~~2015~~;
242 however, any accrued credit carryover that is unused on that
243 date may be used until the expiration of the 3-year carryover
244 period for such credit.

245 Section 2. Subsection (5) of section 220.183, Florida
246 Statutes, is amended to read:

247 220.183 Community contribution tax credit.—

248 (5) EXPIRATION.—The provisions of this section, except
249 paragraph (1) (e), ~~shall~~ expire and are ~~be~~ void on June 30, 2025
250 ~~2015~~.

251 Section 3. Subsection (6) of section 624.5105, Florida
252 Statutes, is amended to read:

253 624.5105 Community contribution tax credit; authorization;
254 limitations; eligibility and application requirements;
255 administration; definitions; expiration.—

256 (6) EXPIRATION.—The provisions of this section, except
257 paragraph (1) (e), ~~shall~~ expire and are ~~be~~ void on June 30, 2025
258 ~~2015~~.

259 Section 4. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 596

INTRODUCER: Appropriations Subcommittee on Finance and Tax; Commerce and Tourism Committee;
and Senator Evers

SUBJECT: Defense Contracting

DATE: April 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Siples</u>	<u>Hrdlicka</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Ryon</u>	<u>Ryon</u>	<u>MS</u>	<u>Favorable</u>
3.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<u>Fav/CS</u>
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 596 allows a defense industry contractor to reduce its federal taxable income used in the calculation of Florida corporate tax liability by an amount equal to 4 percent of a subcontract worth more than \$250,000 that is awarded to a Florida small subcontractor with its primary place of business in Florida.

The Revenue Estimating Conference has determined that the bill reduces general revenue by \$3.3 million in Fiscal Year 2014-2015 and future years.

II. Present Situation:

Florida's Defense Industry

Florida is home to three of ten unified combatant commands and hosts two of only four Navy deep-water ports in the country with adjacent airfields, the military's only space launch facility on the east coast, the Marine Corps' only maritime prepositioning facility, and one of only three Navy Fleet Readiness Centers. The state also hosts several critical research, development, testing and evaluation centers. In addition, the Joint Gulf Range Complex connects test and training

ranges that extend from Key West to Northwest Florida and across the eastern Gulf of Mexico, and encompasses 180,000 square miles of Department of Defense-controlled airspace.¹

Defense spending in Florida was directly or indirectly responsible for \$73.4 billion, or 9.4 percent, of gross state product in 2011.² In 2011, Florida businesses generated \$13.6 billion in U.S. Department of Defense (DoD) contract awards, ranking the state 5th in the nation.³ Total defense spending also accounts for more than 758,000 jobs around the state.⁴

According to the federal government, 61,075 contracts have been awarded to prime contractors by the DoD and the National Aeronautics and Space Administration from federal fiscal year 2013 through the current federal fiscal year for work done in the State of Florida.⁵ Combined, these contracts have a total value of over \$12 billion. There have been over 2,000 subcontracts awarded through those 61,075 contracts, valued at over \$2 billion.⁶

Federal Contracting Overview

The typical federal procurement process involves an agency identifying the goods and services it needs, determining the most appropriate method for purchasing those items, and carrying out an acquisition process. Under most procurement processes, an agency posts a solicitation on the Federal Business Opportunities website. Interested businesses prepare their offers in response to the solicitation, and agency personnel evaluate the offers. To be eligible to compete for government contracts, a business must obtain a Data Universal Numbering System number and register with the System for Award Management. Many agencies provide assistance and services to potential and existing federal contractors.

Businesses may also serve as subcontractors for other businesses (known as “prime contractors”) that have been awarded federal contracts. Most federal agencies typically release information on their websites listing prime contractors that have been awarded federal contracts. Other agencies, including the General Services Administration, Department of Homeland Security, and Small Business Administration provide more specific information regarding subcontracting opportunities with prime contractors on their websites.⁷

¹ Enterprise Florida, Inc. (EFI), *Florida Defense Factbook*, January 2013, available at <http://www.floridadefense.org/documents/HAAS%20Study%202013/Factbook%202013%20FINAL.pdf> (last visited March 27, 2014).

² EFI, *Florida Defense Industry Economic Impact Analysis*, January 2013, available at <http://www.floridadefense.org/documents/HAAS%20Study%202013/Impact2013FinalSubmission3.26.13.pdf> (last visited March 27, 2014).

³ EFI, *Defense and Homeland Security*, available at http://www.enterpriseflorida.com/wp-content/uploads/MB_Homeland_Security1.pdf (last visited March 27, 2014).

⁴ EFI, *Florida Defense Factbook*. Direct employment includes 61,189 military personnel, 24,705 civilian personnel, and 12,449 National Guard personnel.

⁵ United States Office of Management and Budget, USASpending.gov (information may be obtained by using search criteria for Department of Defense, prime contracts, performed in Florida, and by fiscal year), available at <http://usaspending.gov/> (last visited March 27, 2014).

⁶ United States Office of Management and Budget, USASpending.gov (information may be obtained by using search criteria for Department of Defense, prime contracts, performed in Florida, and by fiscal year), available at <http://usaspending.gov/> (last visited March 27, 2014).

⁷ L. Elaine Halchin, Congressional Research Service, *Overview of the Federal Procurement Process and Resources*, September 11, 2012, available at <https://www.fas.org/sgp/crs/misc/RS22536.pdf> (last visited Mar. 27, 2014).

Corporate Income Tax in Florida

Florida imposes a 5.5 percent income tax on corporations doing business in Florida.⁸ The tax is generally referred to as the “corporate income tax” and is imposed on a taxpayer’s “net income.”⁹ Net income is determined using the following process:

- Determine the taxpayer’s taxable income on its federal return,
- Make certain statutory adjustments (additions and subtractions),
- Determine Florida’s portion of the taxpayer’s total income (apportionment), and
- Subtract Florida’s statutory exemption, which is currently equal to \$50,000.

A taxpayer’s corporate income tax liability is determined by multiplying the taxpayer’s net income by the applicable tax rate, which is normally 5.5 percent.¹⁰

Florida provides several incentives that will reduce the amount of corporate income tax owed.¹¹ Generally, these incentives are granted in the form of tax credits, which are applied after the taxpayer’s corporate income tax liability is determined through the process outlined above. In some instances, Florida grants incentives in the form of alternative apportionment methods.¹²

III. Effect of Proposed Changes:

Section 1 creates s. 288.1046, F.S., the Defense Works in Florida Incentive. The incentive allows certain contractors to reduce their adjusted federal taxable income by an amount equal to 4 percent (4 percent subtraction) of the value of subcontracts awarded to certain subcontractors. The subtraction will be taken at the stage in the calculation where the taxpayer makes certain statutory adjustments to the income determined from the federal return.

Requirements to Qualify for the 4 percent Subtraction

Prime Contractor. The bill requires that the prime contractor be a business entity operating in Florida that is awarded a contract directly from the federal government.

Only contracts that include qualified defense work qualify for the 4 percent subtraction. Qualified defense work means “contracts involving manufacturing, engineering, construction, distribution, research, development, or other activities related to equipment, supplies, technology, or other goods or services that directly or indirectly support the United States Armed Forces or that can be reasonably determined to support national security, including space-related activities.”

Subcontractor. The bill requires the subcontractor to have its primary place of business in Florida, have less than or equal to 250 employees at the time the subcontract is made, and have no subsidiary or affiliate relationship to the prime contractor.

⁸ Section 220.11, F.S.

⁹ See s. 220.12, F.S.

¹⁰ The tax rate can be 3.3 percent in some limited situations due to the Alternative Minimum Tax.

¹¹ See generally ss. 220.153 – 220.196, F.S.

¹² See s. 220.153, F.S.

Subcontract. The 4 percent subtraction is only available for subcontracts worth more than \$250,000 and that include “qualified defense work,” but excludes subcontracts executed before July 1, 2014.

Claiming the 4 Percent Subtraction

The bill provides that the prime contractor claims the 4 percent subtraction by applying to the Department of Economic Opportunity (DEO). The prime contractor may claim more than one qualified subcontract; however, each subcontract requires a separate application. The bill authorizes the DEO to establish processes for application approval, appeal and accountability, as necessary. The DEO is also authorized to consult with Enterprise Florida, Inc., and the Florida Defense Support Task Force.

Within 10 days of certification, the DEO must provide a letter certification to the applicant and a copy of the letter to the Department of Revenue. For multi-year contracts, the DEO shall certify the full amount of the award in the calendar year the contract was awarded and the Florida prime contractor may claim the incentive in the taxable year in which the payment is made to the Florida small business subcontractor.

The bill allows the prime contractor to claim the 4 percent subtraction in the taxable years in which payments are made to the subcontractor.

Limitations on Certifications by DEO

The bill limits each prime contractor to \$250 million in aggregate awards.

The maximum amount of certifications the DEO may certify in a calendar year for all contractors is \$2.5 billion in aggregate awards.

Section 2 amends s. 220.13(b)(1), F.S., to include the 4 percent subtraction as an allowable subtraction in the computation of adjusted federal income used in the calculation of Florida corporate tax liability.

Section 3 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that CS/CS/SB 596 will reduce General Revenue Fund receipts by \$3.3 million in Fiscal Year 2014-2015 and future years.¹³

B. Private Sector Impact:

The bill may have a positive fiscal impact on defense industry prime contractors that will be able to reduce corporate tax liability and may encourage Florida prime contractors to award subcontracts to small businesses within Florida.

C. Government Sector Impact:

The DEO indicates that the fiscal impact on the department is insignificant and any administrative costs will be absorbed by the DEO.¹⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 220.13 of the Florida Statutes.

This bill creates section 288.1046 of the Florida Statutes.

¹³ Revenue Estimating Conference Impact Conference Results from January 17, 2014, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/Impact0117.pdf> (last visited March 27, 2014).

¹⁴ DEO, *2014 Agency Legislative Bill Analysis, Senate Bill 596*, (Jan. 15, 2014) (on file with Senate Commerce and Tourism Committee).

IX. Additional Information:

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

**Recommended CS/CS by Appropriations Subcommittee on Finance and Tax
Finance and Tax on April 2, 2014:**

The CS/CS:

- Removes the limitation that the program only applies to contracts awarded on or after October 1, 2013, and inserts a limitation that the program only applies to subcontracts executed on or after July 1, 2014.
- Inserts a requirement that the prime contractor may only take a 4 percent subtraction in the taxable year that the prime contractor makes a payment to the subcontractor.
- Replaces the term “subcontract award” with the defined term “qualified subcontract award.”
- Removes unnecessary language regarding the effects of the limitations on awards by DEO.

CS by Commerce and Tourism on March 3, 2014:

The CS:

- Clarifies that a “Florida small business contractor” must have 250 employees or less at the time the subcontract award is made to qualify for the incentive.
- Removes a provision that prevented work awarded locally by military institutions from being included in the definition of “qualified defense work.”
- Adds a requirement that “qualified subcontract award” must be valued at more than \$250,000 to qualify for the incentive.
- Requires the DEO, within 10 days of certification, to provide a letter certifying a qualified subcontract award to the applicant and to the DOR.
- Allows eligible businesses to claim the incentive for taxable years beginning on or after January 1, 2014.
- Makes technical changes recommended by the DOR, including changing the term “taxable year” or “tax year” to “calendar year,” as needed.
- Amends s. 220.13, F.S., to include the incentive created by this bill as an allowable subtraction in the computation of the adjusted federal income.

- B. **Amendments:**

None.



731766

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Evers)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 288.1046, Florida Statutes, is created
to read:

288.1046 Defense Works in Florida Incentive.-

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

(a) "Florida prime contractor" means a business entity
operating in this state that is awarded a prime contract.



731766

11 (b) "Florida small business subcontractor" means a business
12 entity that:

13 1. Maintains its primary place of business in the state;

14 2. Has 250 or fewer employees at the time a qualified
15 subcontract award is made;

16 3. Is awarded a subcontract from a Florida prime
17 contractor; and

18 4. Has no subsidiary or affiliate business relationship to
19 the prime contractor making the award.

20 (c) "Prime contract" means a contract that is awarded
21 directly from the Federal Government.

22 (d) "Qualified defense work" means a prime contract awarded
23 for manufacturing, engineering, construction, distribution,
24 research, development, or other activities related to equipment,
25 supplies, technology, or other goods or services that directly
26 or indirectly support the United States Armed Forces or that can
27 be reasonably determined to support national security, including
28 space related activities.

29 (e) "Qualified subcontract award" means qualified defense
30 work, in part or in whole, subcontracted from a Florida prime
31 contractor to a Florida small business subcontractor, which is
32 executed in the state and valued at more than \$250,000. The term
33 does not include subcontracts executed before July 1, 2014.

34 (2) A Florida prime contractor may apply to the department
35 to certify that it may reduce its computation of adjusted
36 federal income under s. 220.13 by an amount equal to 4 percent
37 of the subcontract award if such prime contractor:

38 (a) Is subject to chapter 220;

39 (b) Is awarded qualified defense work; and



731766

40 (c) Awards a qualified subcontract award.
41 (3) A Florida prime contractor may reduce its adjusted
42 federal income under subsection (2) only for taxable years
43 beginning on or after January 1, 2014, and must apply separately
44 to the department for each qualified subcontract award and
45 provide the department required documentation, including, but
46 not limited to, the application for the award and copies of
47 contracts, tax records, or employment records.
48 (4) The department may establish application, approval,
49 appeal, and accountability processes as necessary. The
50 department may consult with Enterprise Florida, Inc., and the
51 Florida Defense Support Task Force as necessary to administer
52 this section.
53 (a) Within 10 days after certifying a qualified subcontract
54 award, the department shall provide:
55 1. A letter certifying the award to the applicant; and
56 2. A copy of the letter certifying the award to the
57 Department of Revenue.
58 (b) The department may certify, for each Florida prime
59 contractor applicant per calendar year, up to \$250 million in
60 aggregate qualified subcontract awards.
61 (c) The department may certify in total, per calendar year,
62 up to \$2.5 billion in aggregate qualified subcontract awards.
63 (d) For a multiyear qualified subcontract award, the
64 department shall certify the full amount of the award under
65 paragraphs (b) and (c) in the calendar year it was awarded.
66 (e) The Florida prime contractor may reduce its adjusted
67 federal income under subsection (2) in the taxable years in
68 which payments are made to the Florida small business



731766

69 subcontractor.

70 (5) The department and the Department of Revenue may adopt
71 rules to administer this section.

72 Section 2. Paragraph (b) of subsection (1) of 220.13,
73 Florida Statutes, is amended to read:

74 220.13 "Adjusted federal income" defined.—

75 (1) The term "adjusted federal income" means an amount
76 equal to the taxpayer's taxable income as defined in subsection
77 (2), or such taxable income of more than one taxpayer as
78 provided in s. 220.131, for the taxable year, adjusted as
79 follows:

80 (b) *Subtractions.*—

81 1. There shall be subtracted from such taxable income:

82 a. The net operating loss deduction allowable for federal
83 income tax purposes under s. 172 of the Internal Revenue Code
84 for the taxable year, except that any net operating loss that is
85 transferred pursuant to s. 220.194(6) may not be deducted by the
86 seller;τ

87 b. The net capital loss allowable for federal income tax
88 purposes under s. 1212 of the Internal Revenue Code for the
89 taxable year;τ

90 c. The excess charitable contribution deduction allowable
91 for federal income tax purposes under s. 170(d)(2) of the
92 Internal Revenue Code for the taxable year;τ and

93 d. The excess contributions deductions allowable for
94 federal income tax purposes under s. 404 of the Internal Revenue
95 Code for the taxable year.

96

97 However, a net operating loss and a capital loss shall never be



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98 carried back as a deduction to a prior taxable year, but all
99 deductions attributable to such losses shall be deemed net
100 operating loss carryovers and capital loss carryovers,
101 respectively, and treated in the same manner, to the same
102 extent, and for the same time periods as are prescribed for such
103 carryovers in ss. 172 and 1212, respectively, of the Internal
104 Revenue Code.

105 2. There shall be subtracted from such taxable income any
106 amount to the extent included therein the following:

107 a. Dividends treated as received from sources without the
108 United States, as determined under s. 862 of the Internal
109 Revenue Code.

110 b. All amounts included in taxable income under s. 78 or s.
111 951 of the Internal Revenue Code.

112

113 However, as to any amount subtracted under this subparagraph,
114 there shall be added to such taxable income all expenses
115 deducted on the taxpayer's return for the taxable year which are
116 attributable, directly or indirectly, to such subtracted amount.
117 Further, no amount shall be subtracted with respect to dividends
118 paid or deemed paid by a Domestic International Sales
119 Corporation.

120 3. In computing "adjusted federal income" for taxable years
121 beginning after December 31, 1976, there shall be allowed as a
122 deduction the amount of wages and salaries paid or incurred
123 within this state for the taxable year for which no deduction is
124 allowed pursuant to s. 280C(a) of the Internal Revenue Code
125 (relating to credit for employment of certain new employees).

126 4. There shall be subtracted from such taxable income any



731766

127 amount of nonbusiness income included therein.

128 5. There shall be subtracted any amount of taxes of foreign
129 countries allowable as credits for taxable years beginning on or
130 after September 1, 1985, under s. 901 of the Internal Revenue
131 Code to any corporation which derived less than 20 percent of
132 its gross income or loss for its taxable year ended in 1984 from
133 sources within the United States, as described in s.

134 861(a)(2)(A) of the Internal Revenue Code, not including credits
135 allowed under ss. 902 and 960 of the Internal Revenue Code,
136 withholding taxes on dividends within the meaning of sub-
137 subparagraph 2.a., and withholding taxes on royalties, interest,
138 technical service fees, and capital gains.

139 6. There shall be subtracted from such taxable income 4
140 percent of the amount of the subcontract award certified by the
141 Department of Economic Opportunity and paid to the subcontractor
142 pursuant to s. 288.1046.

143 7. Notwithstanding any other provision of this code, except
144 with respect to amounts subtracted pursuant to subparagraphs 1.
145 and 3., any increment of any apportionment factor which is
146 directly related to an increment of gross receipts or income
147 which is deducted, subtracted, or otherwise excluded in
148 determining adjusted federal income shall be excluded from both
149 the numerator and denominator of such apportionment factor.
150 Further, all valuations made for apportionment factor purposes
151 shall be made on a basis consistent with the taxpayer's method
152 of accounting for federal income tax purposes.

153 Section 3. This act shall take effect July 1, 2014.

154
155 ===== T I T L E A M E N D M E N T =====



731766

156 And the title is amended as follows:

157 Delete everything before the enacting clause
158 and insert:

159 A bill to be entitled

160 An act relating to defense contracting; creating s.
161 288.1046, F.S.; defining terms; authorizing certain
162 prime contractors to apply to the Department of
163 Economic Opportunity to certify that such contractors
164 may reduce their computation of adjusted federal
165 income by a certain amount when awarded a prime
166 contract; providing requirements to apply for a
167 reduction in computation of income; requiring a prime
168 contractor to apply separately for each qualified
169 subcontract award and to provide documentation;
170 providing guidelines for the department to certify an
171 award; authorizing the department and the Department
172 of Revenue to adopt rules; amending s. 220.13, F.S.;
173 revising the definition of the term "adjusted federal
174 income" for corporate income tax purposes; providing
175 for certain reduction in computation of income, to
176 conform; providing an effective date.



113672

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2014	.	
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	.	
	.	

Appropriations Subcommittee on Finance and Tax (Evers)
recommended the following:

Senate Amendment to Amendment (731766)

Delete lines 37 - 140
and insert:
of the qualified subcontract award if such prime contractor:

- (a) Is subject to chapter 220;
- (b) Is awarded qualified defense work; and
- (c) Awards a qualified subcontract award.

(3) A Florida prime contractor may reduce its adjusted
federal income under subsection (2) only for taxable years



113672

11 beginning on or after January 1, 2014, and must apply separately
12 to the department for each qualified subcontract award and
13 provide the department required documentation, including, but
14 not limited to, the application for the award and copies of
15 contracts, tax records, or employment records.

16 (4) The department may establish application, approval,
17 appeal, and accountability processes as necessary. The
18 department may consult with Enterprise Florida, Inc., and the
19 Florida Defense Support Task Force as necessary to administer
20 this section.

21 (a) Within 10 days after certifying a qualified subcontract
22 award, the department shall provide:

- 23 1. A letter certifying the award to the applicant; and
24 2. A copy of the letter certifying the award to the
25 Department of Revenue.

26 (b) The department may certify, for each Florida prime
27 contractor applicant per calendar year, up to \$250 million in
28 aggregate qualified subcontract awards.

29 (c) The department may certify in total, per calendar year,
30 up to \$2.5 billion in aggregate qualified subcontract awards.

31 (d) For a multiyear qualified subcontract award, the
32 department shall certify the full amount of the award under
33 paragraphs (b) and (c) in the calendar year it was awarded.

34 (e) The Florida prime contractor may reduce its adjusted
35 federal income under subsection (2) in the taxable years in
36 which payments are made to the Florida small business
37 subcontractor.

38 (5) The department and the Department of Revenue may adopt
39 rules to administer this section.



113672

40 Section 2. Paragraph (b) of subsection (1) of 220.13,
41 Florida Statutes, is amended to read:

42 220.13 "Adjusted federal income" defined.—

43 (1) The term "adjusted federal income" means an amount
44 equal to the taxpayer's taxable income as defined in subsection
45 (2), or such taxable income of more than one taxpayer as
46 provided in s. 220.131, for the taxable year, adjusted as
47 follows:

48 (b) *Subtractions.*—

49 1. There shall be subtracted from such taxable income:

50 a. The net operating loss deduction allowable for federal
51 income tax purposes under s. 172 of the Internal Revenue Code
52 for the taxable year, except that any net operating loss that is
53 transferred pursuant to s. 220.194(6) may not be deducted by the
54 seller;τ

55 b. The net capital loss allowable for federal income tax
56 purposes under s. 1212 of the Internal Revenue Code for the
57 taxable year;τ

58 c. The excess charitable contribution deduction allowable
59 for federal income tax purposes under s. 170(d)(2) of the
60 Internal Revenue Code for the taxable year;τ and

61 d. The excess contributions deductions allowable for
62 federal income tax purposes under s. 404 of the Internal Revenue
63 Code for the taxable year.

64

65 However, a net operating loss and a capital loss shall never be
66 carried back as a deduction to a prior taxable year, but all
67 deductions attributable to such losses shall be deemed net
68 operating loss carryovers and capital loss carryovers,



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69 respectively, and treated in the same manner, to the same
70 extent, and for the same time periods as are prescribed for such
71 carryovers in ss. 172 and 1212, respectively, of the Internal
72 Revenue Code.

73 2. There shall be subtracted from such taxable income any
74 amount to the extent included therein the following:

75 a. Dividends treated as received from sources without the
76 United States, as determined under s. 862 of the Internal
77 Revenue Code.

78 b. All amounts included in taxable income under s. 78 or s.
79 951 of the Internal Revenue Code.

80

81 However, as to any amount subtracted under this subparagraph,
82 there shall be added to such taxable income all expenses
83 deducted on the taxpayer's return for the taxable year which are
84 attributable, directly or indirectly, to such subtracted amount.
85 Further, no amount shall be subtracted with respect to dividends
86 paid or deemed paid by a Domestic International Sales
87 Corporation.

88 3. In computing "adjusted federal income" for taxable years
89 beginning after December 31, 1976, there shall be allowed as a
90 deduction the amount of wages and salaries paid or incurred
91 within this state for the taxable year for which no deduction is
92 allowed pursuant to s. 280C(a) of the Internal Revenue Code
93 (relating to credit for employment of certain new employees).

94 4. There shall be subtracted from such taxable income any
95 amount of nonbusiness income included therein.

96 5. There shall be subtracted any amount of taxes of foreign
97 countries allowable as credits for taxable years beginning on or



113672

98 after September 1, 1985, under s. 901 of the Internal Revenue
99 Code to any corporation which derived less than 20 percent of
100 its gross income or loss for its taxable year ended in 1984 from
101 sources within the United States, as described in s.
102 861(a)(2)(A) of the Internal Revenue Code, not including credits
103 allowed under ss. 902 and 960 of the Internal Revenue Code,
104 withholding taxes on dividends within the meaning of sub-
105 subparagraph 2.a., and withholding taxes on royalties, interest,
106 technical service fees, and capital gains.

107 6. There shall be subtracted from such taxable income 4
108 percent of the amount of the qualified subcontract award
109 certified by the

By the Committee on Commerce and Tourism; and Senator Evers

577-02073-14

2014596c1

1 A bill to be entitled
 2 An act relating to defense contracting; creating s.
 3 288.1046, F.S.; defining terms; authorizing certain
 4 prime contractors to apply to the Department of
 5 Economic Opportunity to certify that such contractors
 6 may reduce their computation of adjusted federal
 7 income by a certain amount when awarded a prime
 8 contract; providing requirements to apply for a
 9 reduction in computation of income; requiring a prime
 10 contractor to apply separately for each qualified
 11 subcontract award and to provide documentation;
 12 providing guidelines for the department to certify an
 13 award; authorizing the department and the Department
 14 of Revenue to adopt rules; amending s. 220.13, F.S.;
 15 revising the definition of the term "adjusted federal
 16 income" for corporate income tax purposes; providing
 17 for certain reduction in computation of income, to
 18 conform; providing an effective date.

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

21
 22 Section 1. Section 288.1046, Florida Statutes, is created
 23 to read:

24 288.1046 Defense Works in Florida Incentive.-

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

26 (a) "Florida prime contractor" means a business entity
 27 operating in this state that is awarded a prime contract.

28 (b) "Florida small business subcontractor" means a business
 29 entity that:

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

577-02073-14

2014596c1

30 1. Maintains its primary place of business in the state;
 31 2. Has 250 or fewer employees at the time a qualified
 32 subcontract award is made;
 33 3. Is awarded a subcontract from a Florida prime
 34 contractor; and
 35 4. Has no subsidiary or affiliate business relationship to
 36 the prime contractor making the award.
 37 (c) "Prime contract" means a contract that is awarded
 38 directly from the Federal Government.
 39 (d) "Qualified defense work" means a prime contract awarded
 40 for manufacturing, engineering, construction, distribution,
 41 research, development, or other activities related to equipment,
 42 supplies, technology, or other goods or services that directly
 43 or indirectly support the United States Armed Forces or that can
 44 be reasonably determined to support national security, including
 45 space related activities. The term does not include contracts
 46 awarded before October 1, 2013.
 47 (e) "Qualified subcontract award" means qualified defense
 48 work, in part or in whole, subcontracted from a Florida prime
 49 contractor to a Florida small business subcontractor, which is
 50 executed in the state and valued at more than \$250,000.
 51 (2) A Florida prime contractor may apply to the department
 52 to certify that it may reduce its computation of adjusted
 53 federal income under s. 220.13 by an amount equal to 4 percent
 54 of the subcontract award if such prime contractor:
 55 (a) Is subject to chapter 220;
 56 (b) Is awarded qualified defense work; and
 57 (c) Awards a qualified subcontract award.
 58 (3) A Florida prime contractor may claim the incentive

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2014596c1

59 under subsection (2) only for taxable years beginning on or
 60 after January 1, 2014, and must apply separately to the
 61 department for each qualified subcontract award and provide the
 62 department required documentation, including, but not limited
 63 to, the application for the award and copies of contracts, tax
 64 records, or employment records.

65 (4) The department may establish application, approval,
 66 appeal, and accountability processes as necessary. The
 67 department may consult with Enterprise Florida, Inc., and the
 68 Florida Defense Support Task Force as necessary to administer
 69 this section.

70 (a) Within 10 days after certifying a qualified subcontract
 71 award, the department shall provide:

72 1. A letter certifying the award to the applicant; and

73 2. A copy of the letter certifying the award to the
 74 Department of Revenue.

75 (b) The department may certify, for each Florida prime
 76 contractor applicant per calendar year, up to \$250 million in
 77 aggregate qualified subcontract awards, equaling up to \$10
 78 million in reduced taxable income and up to \$550,000 in reduced
 79 taxes.

80 (c) The department may certify in total, per calendar year,
 81 up to \$2.5 billion in aggregate qualified subcontract awards,
 82 equaling up to \$100 million in reduced taxable income and up to
 83 \$5.5 million in reduced taxes.

84 (d) For a multiyear qualified subcontract award:

85 1. The department shall certify the full amount of the
 86 award under paragraphs (b) and (c) in the calendar year it was
 87 awarded; and

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88 2. The Florida prime contractor may claim the incentive in
 89 the taxable year in which payment is made to the Florida small
 90 business subcontractor.

91 (5) The department and the Department of Revenue may adopt
 92 rules to administer this section.

93 Section 2. Paragraph (b) of subsection (1) of 220.13,
 94 Florida Statutes, is amended to read:

95 220.13 "Adjusted federal income" defined.—

96 (1) The term "adjusted federal income" means an amount
 97 equal to the taxpayer's taxable income as defined in subsection
 98 (2), or such taxable income of more than one taxpayer as
 99 provided in s. 220.131, for the taxable year, adjusted as
 100 follows:

101 (b) Subtractions.—

102 1. There shall be subtracted from such taxable income:

103 a. The net operating loss deduction allowable for federal
 104 income tax purposes under s. 172 of the Internal Revenue Code
 105 for the taxable year, except that any net operating loss that is
 106 transferred pursuant to s. 220.194(6) may not be deducted by the
 107 seller;~~r~~

108 b. The net capital loss allowable for federal income tax
 109 purposes under s. 1212 of the Internal Revenue Code for the
 110 taxable year;~~r~~

111 c. The excess charitable contribution deduction allowable
 112 for federal income tax purposes under s. 170(d)(2) of the
 113 Internal Revenue Code for the taxable year;~~r~~ and

114 d. The excess contributions deductions allowable for
 115 federal income tax purposes under s. 404 of the Internal Revenue
 116 Code for the taxable year.

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117
118 However, a net operating loss and a capital loss shall never be
119 carried back as a deduction to a prior taxable year, but all
120 deductions attributable to such losses shall be deemed net
121 operating loss carryovers and capital loss carryovers,
122 respectively, and treated in the same manner, to the same
123 extent, and for the same time periods as are prescribed for such
124 carryovers in ss. 172 and 1212, respectively, of the Internal
125 Revenue Code.

126 2. There shall be subtracted from such taxable income any
127 amount to the extent included therein the following:

128 a. Dividends treated as received from sources without the
129 United States, as determined under s. 862 of the Internal
130 Revenue Code.

131 b. All amounts included in taxable income under s. 78 or s.
132 951 of the Internal Revenue Code.

133
134 However, as to any amount subtracted under this subparagraph,
135 there shall be added to such taxable income all expenses
136 deducted on the taxpayer's return for the taxable year which are
137 attributable, directly or indirectly, to such subtracted amount.
138 Further, no amount shall be subtracted with respect to dividends
139 paid or deemed paid by a Domestic International Sales
140 Corporation.

141 3. In computing "adjusted federal income" for taxable years
142 beginning after December 31, 1976, there shall be allowed as a
143 deduction the amount of wages and salaries paid or incurred
144 within this state for the taxable year for which no deduction is
145 allowed pursuant to s. 280C(a) of the Internal Revenue Code

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146 (relating to credit for employment of certain new employees).

147 4. There shall be subtracted from such taxable income any
148 amount of nonbusiness income included therein.

149 5. There shall be subtracted any amount of taxes of foreign
150 countries allowable as credits for taxable years beginning on or
151 after September 1, 1985, under s. 901 of the Internal Revenue
152 Code to any corporation which derived less than 20 percent of
153 its gross income or loss for its taxable year ended in 1984 from
154 sources within the United States, as described in s.

155 861(a)(2)(A) of the Internal Revenue Code, not including credits
156 allowed under ss. 902 and 960 of the Internal Revenue Code,
157 withholding taxes on dividends within the meaning of sub-
158 subparagraph 2.a., and withholding taxes on royalties, interest,
159 technical service fees, and capital gains.

160 6. There shall be subtracted from such taxable income 4
161 percent of the amount of the subcontract award certified by the
162 Department of Economic Opportunity pursuant to s. 288.1046.

163 7. Notwithstanding any other provision of this code, except
164 with respect to amounts subtracted pursuant to subparagraphs 1.
165 and 3., any increment of any apportionment factor which is
166 directly related to an increment of gross receipts or income
167 which is deducted, subtracted, or otherwise excluded in
168 determining adjusted federal income shall be excluded from both
169 the numerator and denominator of such apportionment factor.
170 Further, all valuations made for apportionment factor purposes
171 shall be made on a basis consistent with the taxpayer's method
172 of accounting for federal income tax purposes.

173 Section 3. This act shall take effect July 1, 2014.

Page 6 of 6

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 712

INTRODUCER: Senator Galvano and others

SUBJECT: Taxes on Prepaid Calling Arrangements

DATE: April 2, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	Favorable
2.	<u>Cote</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 712 revises the definition of “prepaid calling arrangement” in chapter 202, F.S., relating to the Communication Services Tax and chapter 212, F.S., relating to the sales tax, to include mobile communications services that meet specified conditions. The bill expands the definition of “prepaid calling arrangement” to include prepaid communication services other than those that consist exclusively of telephone calls, and provides that the purchaser of prepaid units may use the units to purchase communication services other than mobile communication services, if the other services are provided to or through the same handset or other electronic device the purchaser uses to access mobile communication services.

The changes made by the bill are intended to be remedial in nature and apply retroactively, but do not provide a basis for an assessment of any tax not paid or create a right to a refund or credit of any tax paid before the effective date, July 1, 2014.

The Revenue Estimating Conference estimated that this bill will have a zero cash impact in Fiscal Year 2014-2015, with the following recurring, negative impacts: General Revenue Fund (\$1.4 million), Public Education Capital Outlay Trust Fund (\$5.7 million), and local governments (\$11.2 million). Additional losses of an indeterminate amount may occur due to the purchase, on a prepaid basis, of other communication services through the same handset or other electronic device that is used by the purchaser to access mobile communication services. See Section V. of this analysis for additional information regarding the fiscal impact of the bill.

The mandates constitutional provision may apply to this bill, requiring a two-thirds vote of the membership of each house for passage. See Section IV.A. of the analysis.

II. Present Situation:

Communications Services Tax

Chapter 202, F.S., provides for a tax on communication services, including telecommunications, cable, direct-to-home satellite and related services. The communications services tax includes a state tax rate of 6.65 percent and a state gross receipts tax rate of 2.52 percent for a combined rate of 9.17 percent.¹ In addition, local governments may impose a local tax rate of up to 7.12 percent.² The statewide, total average tax rate is approximately 14.21 percent.

A portion of the state taxes collected – including taxes collected on direct-to-home satellite service – are deposited into the General Revenue Fund and a portion is distributed to local governments.³ Gross receipts tax collections are deposited into the Public Education Capital Outlay and Debt Service Trust Fund and are used to fund public schools’, community colleges’, and universities’ capital projects.

Prepaid Calling Arrangement

The communication services tax (CST) is applied to the sales price of each communications service which originates and terminates in this state, or originates or terminates in this state and is charged to a service address in this state.⁴ However, the definition of the term “sales price” expressly excludes the “sale or recharge of a prepaid calling arrangement,” so CST is not collected on the sale of a prepaid calling arrangement.⁵

The term “prepaid calling arrangement” is defined to mean “the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars of which the number declines with use in a known amount.”⁶

Chapter 212, F.S., provides for the application of the sales tax to the sale of tangible personal property and some services. The sales tax rate of 6 percent is applicable to charges for prepaid calling arrangements.⁷ The term “prepaid calling arrangement” as defined in ch. 212, F.S., means “the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars whose number declines with use in a known amount.”⁸ The

¹ See ss. 202.12(1)(a) and 203.01(1)(b), F.S. The gross receipts tax is 2.37 percent, plus an additional 0.15 percent for certain services. Direct-to-home satellite is taxed at a rate of 10.8 percent and is also subject to the 2.37 percent gross receipts tax. The local tax does not apply to these services.

² Section 202.19, F.S.

³ Section 202.18, F.S.

⁴ Section 202.12, F.S.

⁵ Section 202.11(13)(b)4., F.S.

⁶ Section 202.11(9), F.S.

⁷ Section 212.05(1)(e)1., F.S.

⁸ *Id.*

definition of “prepaid calling arrangement” in ch. 202, F.S. is virtually identical to the definition in ch. 212, F.S.

When the definition of prepaid calling arrangement was placed in the statute⁹, prepaid calling arrangements typically consisted of prepaid calling cards purchased in advance and limited to telephone calls. However, since then the telecommunications industry has developed to offer more prepaid plans compatible with the texting, data, video, and other capabilities of today’s modern smartphones. This has led to increased utilization of prepaid mobile services. As markets and technology have evolved, the statutory definition has become increasingly incompatible and inconsistent with industry practice and the ability to collect communication services taxes.

As technology evolved, most communications service providers and other prepaid phone retailers continued to apply the sales tax to all prepaid mobile phone plans, even though the plans did not meet the strict definition of a “prepaid calling arrangement.” This practice continues today for all prepaid plans.

DOR Tax Information Publication on Prepaid Communications Services

In March of 2012, DOR issued Tax Information Publication (TIP) No. 12ADM-02 to provide clarification regarding the application of Florida taxes to sales of certain prepaid communications plans and services.¹⁰ The TIP stated that certain prepaid communications plans or services are not “prepaid calling arrangements.” It continued:

Examples of such plans that do not fall under this definition include, but are not limited to:

- service that includes text messaging, multimedia messaging, web, e-mail, etc.;
- unlimited calling plans that do *not* decline with usage;
- services or plans that are *not* sold in predetermined units or dollars; or
- services or plans that are *not* originated using an access number or authorization code.¹¹

The TIP concluded that a “sale of a prepaid card or prepaid arrangement that does not fall under the strict definition of a “prepaid calling arrangement” is not subject to sales tax. Instead, sales of such plans are subject to CST.¹²

The TIP was retracted on July 29, 2013, after DOR received a notice contesting the TIP as an un-promulgated rule. Currently, DOR is in the rule development process.

In summary, the current statutory provisions seem to require the conclusion that sales of prepaid calling plans or services that meet the **strict** definition of a “prepaid calling arrangement” are

⁹ Chapter 2000-260, Laws of Florida.

¹⁰ Florida Department of Revenue, *Prepaid Communications Services*, TIP No. 12ADM-02 (March 27, 2012) available at <http://dor.myflorida.com/dor/tips/tip12adm-02.html>.

¹¹ *Id.* Emphasis in the original.

¹² *Id.*

subject to the state sales tax (6 percent) and local discretionary sales surtaxes, and that sales of plans that do not meet the strict definition are subject to the state CST (6.65 percent), gross receipts tax (2.52) and the local CST (variable rate) applicable to other communication services.

Communications service providers do not agree with this conclusion and argue that the prepaid mobile phone plans being sold today are subject only to the state sales tax and local discretionary sales surtaxes.

III. Effect of Proposed Changes:

Section 1 amends subsection 202.11(9), F.S., to revise the definition of the term “prepaid calling arrangement.” For other than mobile communications services, the term includes a right to use communications services “for which a separately stated price must be paid in advance, which is sold at retail in predetermined units that decline in number with use on a predetermined basis, and which consists exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered.”

For mobile communications services, the term includes “a right to use mobile communications services that must be paid for in advance and is sold at retail in predetermined units that expire or decline in number on a predetermined basis if:

1. The purchaser’s right to use mobile communications services terminates upon all purchased units expiring or being exhausted unless the purchaser pays for additional units;
2. The purchaser is not required to purchase additional units; and
3. Any right of the purchaser to use units to obtain communications services other than mobile communications services is limited to services that are provided to or through the same handset or other electronic device that is used by the purchaser to access mobile communications services.”

Predetermined units may be quantified as amounts of usage, time, money, or a combination of these or other means of measurement.

The bill expands the definition of “prepaid calling arrangement” to include prepaid communication services other than those that consist exclusively of telephone calls. The changes recognize that under current industry practices prepaid services may include services other than telephone calls, such as text messaging, web access, and email.

In addition, the bill provides that the purchaser of prepaid units may use the units to purchase other communication services other than mobile communication services if the other services are provided to or through the same handset or other electronic device the purchaser uses to access mobile communication services. This provision may result in communication services currently subject to CST tax rates being subject to only sales tax in the future if they are sold as part of a prepaid calling arrangement.

Section 2 amends paragraph 212.05(1)(e), F.S., to define the term “prepaid calling arrangement” to have the same meaning as provided for in s. 202.11, F.S.

The bill also provides that if a purchaser of a prepaid calling arrangement has paid sales tax on the sale or recharge of such arrangement, no additional sales tax or CST tax is due or payable if the purchaser applies one or more units of the prepaid calling arrangement to obtain communications services that are provided to or through the same handset or other electronic device that is used by the purchaser to access mobile communications services, other services that are not communications services, or products.

Section 3 provides that the amendments made by the bill are intended to be remedial in nature and apply retroactively, but do not provide a basis for an assessment of any tax not paid or create a right to a refund or credit of any tax paid before the effective date of this act.

Section 4 provides that, except as otherwise expressly provided in section 3, the bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.

The mandates provision may apply because the bill redefines the types of services to which local Communication Services tax rates apply, thereby potentially reducing the authority of municipalities to raise revenue.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimated that SB 712 will have a zero cash impact in Fiscal Year 2014-2015, with the following recurring, negative impacts: General Revenue (\$1.4 million), PECO Trust (\$5.7 million), and Local (\$11.2 million). Additional losses of an indeterminate amount may occur due to the purchase, on a prepaid basis, of other communication services through the same handset or other electronic device that is used by the purchaser to access mobile communication services.

In addition, a loss of up to \$600 million in audit recoveries may occur if the Department of Revenue were to successfully enforce the strict definition of “prepaid calling arrangement,” with a potential loss of up to \$200 million annually on a going-forward basis. These amounts reflect the estimate of what CST tax collections would have been in the past and would be in the future if CST tax, instead of sales tax, were collected on prepaid calling arrangements. However, because current industry practice is to collect sales tax on prepaid mobile communications services, and the timing of any successful Department of Revenue action is unknown, it is uncertain if and when these losses would be realized.

B. Private Sector Impact:

Communications service providers can continue to offer a prepaid plan consisting of a flat-rate charge for a predetermined number of units that can be used to purchase mobile communications services, including services such as texting, without the sale being subject to the higher CST rate. Purchasers of these plans will continue to pay the sales tax rate instead of the higher CST tax rate.

C. Government Sector Impact:

The bill may require that the Department of Revenue (DOR) notify all businesses that sell prepaid wireless telecommunication services of the changes made by the bill. This would require mailing a Tax Information Publication to 262,200 businesses. The estimated nonrecurring cost to DOR is \$125,646.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 202.11 and 212.05.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Galvano

26-00835C-14

2014712__

1 A bill to be entitled
 2 An act relating to taxes on prepaid calling
 3 arrangements; amending ss. 202.11 and 212.05, F.S.;
 4 revising the definition of "prepaid calling
 5 arrangement" to clarify and update which services are
 6 included under that definition and subject to a sales
 7 tax; providing for retroactive application; providing
 8 an effective date.

9

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

11

12 Section 1. Subsection (9) of section 202.11, Florida
 13 Statutes, is amended to read:

14 202.11 Definitions.—As used in this chapter, the term:

15 (9) "Prepaid calling arrangement" means: ~~the separately~~
 16 ~~stated retail sale by advance payment of~~
 17 (a) A right to use communications services, other than
 18 mobile communications services, for which a separately stated
 19 price must be paid in advance, which is sold at retail in
 20 predetermined units that decline in number with use on a
 21 predetermined basis, and which ~~that~~ consist exclusively of
 22 telephone calls originated by using an access number,
 23 authorization code, or other means that may be manually,
 24 electronically, or otherwise entered; ~~or and that are sold in~~
 25 ~~predetermined units or dollars of which the number declines with~~
 26 ~~use in a known amount.~~

27 (b) A right to use mobile communications services that must
 28 be paid for in advance and is sold at retail in predetermined
 29 units that expire or decline in number on a predetermined basis

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

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30 if:
 31 1. The purchaser's right to use mobile communications
 32 services terminates upon all purchased units expiring or being
 33 exhausted unless the purchaser pays for additional units;
 34 2. The purchaser is not required to purchase additional
 35 units; and
 36 3. Any right of the purchaser to use units to obtain
 37 communications services other than mobile communications
 38 services is limited to services that are provided to or through
 39 the same handset or other electronic device that is used by the
 40 purchaser to access mobile communications services.

41

42 Predetermined units described in this subsection may be
 43 quantified as amounts of usage, time, money, or a combination of
 44 these or other means of measurement.

45 Section 2. Paragraph (e) of subsection (1) of section
 46 212.05, Florida Statutes, is amended to read:

47 212.05 Sales, storage, use tax.—It is hereby declared to be
 48 the legislative intent that every person is exercising a taxable
 49 privilege who engages in the business of selling tangible
 50 personal property at retail in this state, including the
 51 business of making mail order sales, or who rents or furnishes
 52 any of the things or services taxable under this chapter, or who
 53 stores for use or consumption in this state any item or article
 54 of tangible personal property as defined herein and who leases
 55 or rents such property within the state.

56 (1) For the exercise of such privilege, a tax is levied on
 57 each taxable transaction or incident, which tax is due and
 58 payable as follows:

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59 (e)1. At the rate of 6 percent on charges for:

60 a. Prepaid calling arrangements. The tax on charges for
61 prepaid calling arrangements shall be collected at the time of
62 sale and remitted by the selling dealer.

63 (I) "Prepaid calling arrangement" has the same meaning as
64 provided in s. 202.11 ~~means the separately stated retail sale by~~
65 ~~advance payment of communications services that consist~~
66 ~~exclusively of telephone calls originated by using an access~~
67 ~~number, authorization code, or other means that may be manually,~~
68 ~~electronically, or otherwise entered and that are sold in~~
69 ~~predetermined units or dollars whose number declines with use in~~
70 ~~a known amount.~~

71 (II) If the sale or recharge of the prepaid calling
72 arrangement does not take place at the dealer's place of
73 business, it shall be deemed to have taken ~~take~~ place at the
74 customer's shipping address or, if no item is shipped, at the
75 customer's address or the location associated with the
76 customer's mobile telephone number.

77 (III) The sale or recharge of a prepaid calling arrangement
78 shall be treated as a sale of tangible personal property for
79 purposes of this chapter, whether or not a tangible item
80 evidencing such arrangement is furnished to the purchaser, and
81 such sale within this state subjects the selling dealer to the
82 jurisdiction of this state for purposes of this subsection.

83 (IV) No additional tax under this chapter or chapter 202 is
84 due or payable if a purchaser of a prepaid calling arrangement,
85 who has paid tax under this chapter on the sale or recharge of
86 such arrangement, applies one or more units of the prepaid
87 calling arrangement to obtain communications services as

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88 described in s. 202.11(9)(b)3., other services that are not
89 communications services, or products.

90 b. The installation of telecommunication and telegraphic
91 equipment.

92 c. Electrical power or energy, except that the tax rate for
93 charges for electrical power or energy is 7 percent.

94 2. The provisions of s. 212.17(3), regarding credit for tax
95 paid on charges subsequently found to be worthless, are shall be
96 equally applicable to any tax paid under the provisions of this
97 section on charges for prepaid calling arrangements,
98 telecommunication or telegraph services, or electric power
99 subsequently found to be uncollectible. The term word "charges"
100 under ~~in~~ this paragraph does not include any excise or similar
101 tax levied by the Federal Government, any political subdivision
102 of this ~~the~~ state, or any municipality upon the purchase, sale,
103 or recharge of prepaid calling arrangements or upon the purchase
104 or sale of telecommunication, television system program, or
105 telegraph service or electric power, which tax is collected by
106 the seller from the purchaser.

107 Section 3. The amendments made by this act are intended to
108 be remedial in nature and apply retroactively, but do not
109 provide a basis for an assessment of any tax not paid or create
110 a right to a refund or credit of any tax paid before the
111 effective date of this act.

112 Section 4. Except as otherwise expressly provided in
113 section 3 of this act, this act shall take effect July 1, 2014.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 788

INTRODUCER: Appropriations Subcommittee on Finance and Tax; Judiciary Committee; and Senator Ring

SUBJECT: Clerks of Court

DATE: April 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 788 makes various changes to clerk of court procedures. It:

- Authorizes clerks of court to pay jurors and witnesses by check.
- Requires persons applying for a writ of garnishment to pay required deposits directly to the person whose property is being garnished, rather than to the court.
- Prohibits the redemption of tax certificates after tax deed payments are received.
- Establishes a deadline for paying costs of public sale.
- Clarifies the disbursement of funds remaining after a public sale.

The Revenue Estimating Conference has not reviewed the impact of this bill. Staff expects insignificant reductions to court service charges.

II. Present Situation:

The present situation for each section of the bill is discussed below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Section 1 – Juror and Witness Compensation

Present situation: Jurors may be compensated for their service in certain instances.¹ The clerk of court (clerk) is responsible for disbursing payments to jurors and witnesses, and may do so by cash or warrant.²

Proposed change: The bill allows the clerk the option of making payment by check, which is current practice.³

Sections 2 and 3 - Writs of Garnishment

Present situation: Persons who have sued to recover a debt and received a judgment have the right to a writ of garnishment against the person who owes the debt.⁴ The party applying for the writ must deposit \$100 in the registry of the court before the writ can be issued, and the clerk will disburse the \$100 to the person whose property is being garnished. When the \$100 is deposited, the clerk also must collect the statutory fee of three percent (\$3.00), authorized in law as a service charge for the clerk.⁵

Proposed change: The bill requires the party applying for the writ to pay the \$100 deposit directly to the person whose property is being garnished, upon issuance of the writ.

Sections 4 and 6 -- Sale of Tax Certificates

Present situation: When a property owner fails to pay property taxes, the county tax collector sells tax certificates to investors; the tax certificate is awarded to the investor who will pay the unpaid taxes and demand the least amount of interest.⁶

A tax certificate is a lien against the real property, which can lead to public sale of the property. After two years, the owner of the tax certificate can apply for a tax deed.⁷ Upon application for a tax deed, the clerk will conduct a public auction, at which the property is sold to the highest bidder.⁸

When a tax certificate pertains to homestead property and represents less than \$250 in delinquent taxes, the tax collector cannot sell the certificate, but rather is required to issue the certificate to the county.⁹ These certificates continue to accrue interest at the rate of 18 percent per year.¹⁰

¹ Jurors who are not regularly employed or who do not continue to receive regular wages while serving as a juror are entitled to receive \$15 per day for the first 3 days of service and \$30 for each day thereafter. Section 40.24(3)(a) and (b), F.S.

² Section 40.32(3), F.S.

³ Phone conversation with Randy Long, Clerks of Court (March 7, 2014).

⁴ Section 77.01, F.S.

⁵ Sections 77.28 and 28.24(10)(a)1., F.S.

⁶ See s. 197.432, F.S.

⁷ Section 197.502(1), F.S.

⁸ Section 197.542, F.S.

⁹ Section 197.432(4), F.S.

¹⁰ See ss. 197.432(4) and 197.172(2), F.S.

Sometimes persons purchase county-held tax certificates from the county. Until 2011, Florida law did not restrict a person from purchasing a county-held certificate on homestead property, regardless of the amount of tax it represented. In 2011, the statute was amended,¹¹ and now prohibits the purchase of a county-held tax certificate on homestead property unless all tax certificates and interest on the property represent \$250 or more.

Proposed change: The bill removes the restriction on the purchase of county-held tax certificates on homestead property.

Section 5 – Redemption of Tax Certificates

Present situation: A property owner may redeem tax certificates issued on his or her property by paying the face amount of the certificates along with any accrued interest, costs and charges.¹² The property owner has until a tax deed is issued to redeem tax certificates issued on his or her property.

Proposed change: The bill prohibits a property owner from redeeming a tax certificate after the purchaser has made full payment for a tax deed, including documentary stamp taxes and recording fees.

Sections 6 and 7 – Applications for Tax Deed

Present situation: After a tax certificate has been issued for two years, the holder of a tax certificate may file an application for a tax deed with the tax collector of the county where the property described in the certificate is located.¹³ The applicant must pay the tax collector an amount sufficient to redeem all other outstanding tax certificates, omitted taxes plus interest, delinquent taxes plus interest, and current taxes due.¹⁴ The tax collector must notify the legal titleholder of the property for sale, mortgagees, lienholders, other certificateholders, legal titleholders of properties contiguous to the property for sale, and other interested persons that the tax deed application has been received.¹⁵

When the property is sold at a public auction, statutes establish a “minimum bid.”¹⁶ The minimum bid must include all of the costs paid by the tax deed applicant, the amount of tax certificates and tax delinquencies that have accrued since the tax deed application was filed, as well as interest at a rate of 1.5 percent per month from the date the tax deed application was filed until the date of sale.¹⁷ Also, if the property is homestead property, the minimum bid must include an amount equal to one-half of the assessed value of the homestead property.¹⁸

¹¹ Section 39, 2011-151, L.O.F.

¹² Section 197.472(1), F.S.

¹³ Section 197.502(1), F.S.

¹⁴ Section 197.502(2), F.S.

¹⁵ Section 197.502(4), F.S.

¹⁶ Section 197.542(1), F.S.

¹⁷ *Id.*

¹⁸ *Id.*

The certificateholder is not required to buy the property, but he or she has the right to bid. The high bidder must post a nonrefundable deposit of 5 percent of the bid or \$200, whichever is greater, to be applied to the sale price at the time of full payment.¹⁹ If full payment of the final bid is not made when due, the clerk cancels all bids, immediately readvertises the sale to be held within 30 days, and pays all costs of the sale from the deposit.²⁰ Any remaining funds must be applied toward the opening bid.²¹ Current law appears to presume that whenever an individual certificateholder applies for a tax deed and the property is subject to a public auction, someone – likely the certificateholder – will purchase the property. The statutes do not specify what the clerk is to do with property that does not sell at successive public auctions.

If no one bids at a public sale on a county-held certificate, the clerk must enter the land on a list of “lands available for taxes” and must immediately notify the county commission and all other certificateholders that the property is available.²² During the first 90 days after the property is listed, the county may purchase the land for the bid. If the county does not purchase the land, the county provide notice, within the 90-day period, to each legal titleholder of contiguous property that the property is being placed on the list of lands available for taxes.

Proposed change: For properties that do not sell at public auction after an individual certificateholder has applied for a tax deed, the bill authorizes the clerk to enter the property on the list of lands available for taxes. The bill requires the certificateholder to pay costs of resale, if applicable, within 30 days from notice by the clerk, or the clerk will enter the property on the list of lands available for taxes.

The bill removes the requirement that the clerk notify all other certificateholders that the property is being entered on the list of lands available for taxes. The bill also removes the requirement that the county notify contiguous property owners that the land has been placed on the list of lands available for taxes.

Under current law, public sales held after a prior sale was canceled must be held within 30 days after the canceled sale. The bill extends this time period to a maximum of 60 days. The sale must be readvertised within 30 days and the subsequent sale must be held within 30 days after the readvertisement.

Section 8 – Disbursement of Proceeds of Public Sale

Present situation: If the property is purchased for an amount higher than the statutory minimum bid, the excess is disbursed by the clerk to lienholders, in priority order.²³ The clerk must notify by mail all persons having an interest in any balance of undisbursed funds.²⁴

¹⁹ Section 197.542(2), F.S.

²⁰ Section 197.542(1) and (2), F.S.

²¹ *Id.*

²² Section 197.502(7), F.S.

²³ Section 197.582(2), F.S.

²⁴ *Id.*

With regard to funds that remain unclaimed, Florida provides a process for delivering unclaimed property in possession of the state to property owners.²⁵ After a statutory holding period, property in possession of state entities – including courts – is treated as unclaimed property and is subject to unclaimed property statutes. Money held by a court for longer than one year after it is payable or distributable is considered unclaimed property.²⁶

Section 717.117(4), F.S., requires that government entities holding property provide notice to apparent owners that the government entity is in possession of property to which the apparent owner may be entitled.

Proposed change: The bill requires that the clerk ensure that excess funds are paid according to priorities of claims. If a lienholder appears to be entitled to priority, the bill requires the clerk to withhold payment on a junior claim until a court determines the proper distribution of funds. The bill authorizes the clerk in any such action to request reasonable costs and fees from the court.

With respect to money remaining from public sale after payment of all claims, the bill provides that the notice required by s. 197.582, F.S., satisfies the notice requirement regarding unclaimed property, and that for purposes of the 1-year holding period, the money is considered payable and distributable on the date of the notice.

Section 9 – Effective Date

The bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not reviewed the impact of CS/CS/SB 788. Staff expects an insignificant reduction to court service charges.

²⁵ See ch. 717, F.S.

²⁶ Section 717.113, F.S.

B. Private Sector Impact:

This bill requires the certificateholder who applies for a tax deed to pay the costs of resale within 30 days from notice by the clerk, or the clerk will enter the land on the list of lands available for taxes.

C. Government Sector Impact:

To the extent that this bill provides greater clarity and efficiency in the sale of tax certificates and tax deed application processes, the clerks of court may have reduced costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 28.246, 40.32, 77.28, 197.432, 197.472, 197.502, 197.542, 197.582, and 322.245.

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

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

Recommended CS/CS by Appropriations Subcommittee on Finance and Tax on April 2, 2014:

The CS/CS:

- Removes the restriction in current law that prevents a person from purchasing a county-held tax certificate when all tax certificates and interest represent less than \$250; and
- Extends the time a tax deed applicant has to pay the costs of resale from 15 days to 30 days.

CS by Judiciary on March 11, 2014:

The CS removed the following provisions of the bill:

- The requirement that a person obligated to pay court-related costs pay in full in 90 days if the person fails to elect a payment plan or if the clerk rejects the person's payment plan;
- The requirement that the clerk notify the Department of Highway Safety and Motor Vehicles to suspend a person's motor vehicle registration if the person failed to pay court-related obligations;

- The requirement that the clerk notify persons holding certificates if there are no bidders at the public sale and the clerk enters the land on a list of land available for taxes;
- A provision that authorized rather than required clerks to initiate interpleader actions.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Ring)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (3) of section 40.32, Florida
Statutes, is amended to read:

40.32 Clerks to disburse money; payments to jurors and
witnesses.—

(3) Jurors and witnesses shall be paid by the clerk of the
court ~~either~~ in cash, by check, or by warrant within 20 days



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11 after completion of jury service or ~~of~~ completion of service as
12 a witness.

13 (a) ~~If Whenever~~ the clerk of the court pays a juror or
14 witness by cash, the juror or witness shall sign the payroll in
15 the presence of the clerk, a deputy clerk, or some other person
16 designated by the clerk.

17 (b) ~~If Whenever~~ the clerk pays a juror or witness by
18 warrant, he or she shall endorse on the payroll opposite the
19 juror's or witness's name the words "Paid by warrant," giving
20 the number and date of the warrant.

21 Section 2. Section 77.27, Florida Statutes, is amended to
22 read:

23 77.27 No appeal until fees are paid.—If the writ is
24 dismissed or plaintiff fails to sustain his or her claim, ~~an~~ ~~no~~
25 appeal from the judgment is not ~~shall be~~ permitted until the
26 attorney ~~attorney's~~ fee provided in s. 77.28 has been paid ~~into~~
27 ~~court~~.

28 Section 3. Section 77.28, Florida Statutes, is amended to
29 read:

30 77.28 Garnishment; attorney ~~attorney's~~ fees, costs,
31 expenses; deposit required.—Before issuance of any writ of
32 garnishment, the party applying for it shall pay ~~deposit~~ \$100 ~~in~~
33 ~~the registry of the court which shall be paid~~ to the garnishee
34 on the garnishee's demand at any time after the service of the
35 writ for the payment or part payment of his or her attorney
36 ~~attorney's~~ fee which the garnishee expends or agrees to expend
37 in obtaining representation in response to the writ. ~~At the time~~
38 ~~of deposit, the clerk shall collect the statutory fee provided~~
39 ~~by s. 28.24(10) in addition to the \$100 deposited into the~~



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40 ~~registry of the court.~~ On rendering final judgment, the court
41 shall determine the garnishee's costs and expenses, including a
42 reasonable attorney ~~attorney's~~ fee, and in the event of a
43 judgment in favor of the plaintiff, the amount is ~~shall be~~
44 subject to offset by the garnishee against the defendant whose
45 property or debt owing is being garnished. In addition, the
46 court shall tax the garnishee's costs and expenses as costs. The
47 plaintiff may recover in this manner the sum advanced by him or
48 her ~~plaintiff and paid into registry of court,~~ and, if the
49 amount allowed by the court is greater than the amount paid ~~of~~
50 ~~the deposit,~~ together with any offset, judgment for the
51 garnishee shall be entered against the party against whom the
52 costs are taxed for the deficiency.

53 Section 4. Subsection (4) of section 197.432, Florida
54 Statutes, is amended to read:

55 197.432 Sale of tax certificates for unpaid taxes.—

56 (4) A tax certificate representing less than \$250 in
57 delinquent taxes on property that has been granted a homestead
58 exemption for the year in which the delinquent taxes were
59 assessed may not be sold at public auction or by electronic sale
60 as provided in subsection (1) but must be issued by the tax
61 collector to the county at the maximum rate of interest allowed.
62 Section ~~The provisions of s.~~ 197.4725 or s. 197.502(3) may not
63 be invoked if the homestead exemption is granted to the person
64 who received the homestead exemption for the year in which the
65 tax certificate was issued unless any. ~~However, if all~~ such tax
66 certificates and accrued interest represent an amount of \$250 or
67 more, ~~s. 197.502(3) shall be used to determine whether the~~
68 ~~county must apply for a tax deed.~~



895102

69 Section 5. Subsection (1) of section 197.472, Florida
70 Statutes, is amended to read:

71 197.472 Redemption of tax certificates.—

72 (1) A Any person may redeem a tax certificate at any time
73 after the certificate is issued and before a tax deed is issued
74 unless full payment for a tax deed is made to the clerk of the
75 court, including documentary stamps and recording fees ~~or the~~
76 property is placed on the list of lands available for sale. The
77 person redeeming a tax certificate shall pay the tax collector
78 the face amount plus all interest, costs, and charges.

79 Section 6. Subsections (2) and (7) of section 197.502,
80 Florida Statutes, are amended to read:

81 197.502 Application for obtaining tax deed by holder of tax
82 sale certificate; fees.—

83 (2) A certificateholder, other than the county, who makes
84 application for a tax deed shall pay the tax collector at the
85 time of application all amounts required for redemption or
86 purchase of all other outstanding tax certificates, plus
87 interest, any omitted taxes, plus interest, any delinquent
88 taxes, plus interest, and current taxes, if due, covering the
89 property. In addition, the certificateholder shall pay the costs
90 of resale, if applicable, and failure to pay such costs within
91 30 days after notice from the clerk shall result in the clerk's
92 entering the land on a list entitled "lands available for
93 taxes."

94 (7) On county-held or individually held certificates for
95 which there are no bidders at the public sale and for which the
96 certificateholder fails to timely pay costs of resale or fails
97 to pay the amounts due for issuance of a tax deed within 30 days



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98 after the sale, the clerk shall enter the land on a list
99 entitled "lands available for taxes" and shall immediately
100 notify the county commission and ~~all other persons holding~~
101 ~~certificates against the property~~ that the property is
102 available. During the first 90 days after the property is placed
103 on the list, the county may purchase the land for the opening
104 bid or may waive its rights to purchase the property.
105 Thereafter, any person, the county, or any other governmental
106 unit may purchase the property from the clerk, without further
107 notice or advertising, for the opening bid, except that if the
108 county or other governmental unit is the purchaser for its own
109 use, the board of county commissioners may cancel omitted years'
110 taxes, as provided under s. 197.447. ~~If the county does not~~
111 ~~elect to purchase the property, the county must notify each~~
112 ~~legal titleholder of property contiguous to the property~~
113 ~~available for taxes, as provided in paragraph (4) (h), before~~
114 ~~expiration of the 90-day period.~~ Interest on the opening bid
115 continues to accrue through the month of sale as prescribed by
116 s. 197.542.

117 Section 7. Subsections (1) and (3) of section 197.542,
118 Florida Statutes, are amended to read:

119 197.542 Sale at public auction.—

120 (1) Real property advertised for sale to the highest bidder
121 as a result of an application filed under s. 197.502 shall be
122 sold at public auction by the clerk of the circuit court, or his
123 or her deputy, of the county where the property is located on
124 the date, at the time, and at the location as set forth in the
125 published notice, which must be during the regular hours the
126 clerk's office is open. The amount required to redeem the tax



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127 certificate, plus the amounts paid by the holder to the clerk in
128 charges for costs of sale, redemption of other tax certificates
129 on the same property, and all other costs to the applicant for
130 tax deed, plus interest at the rate of 1.5 percent per month for
131 the period running from the month after the date of application
132 for the deed through the month of sale and costs incurred for
133 the service of notice provided for in s. 197.522(2), shall be
134 the bid of the certificateholder for the property. If tax
135 certificates exist or if delinquent taxes accrued subsequent to
136 the filing of the tax deed application, the amount required to
137 redeem such tax certificates or pay such delinquent taxes must
138 be included in the minimum bid. However, if the land to be sold
139 is assessed on the latest tax roll as homestead property, the
140 bid of the certificateholder must be increased to include an
141 amount equal to one-half of the assessed value of the homestead
142 property as required by s. 197.502. If there are no higher bids,
143 the property shall be struck off and sold to the
144 certificateholder, who shall pay to the clerk any amounts
145 included in the minimum bid not already paid, including, but not
146 limited to, the documentary stamp tax, the ~~and~~ recording fees,
147 and, if the property is homestead property, the moneys to cover
148 the one-half value of the homestead within 30 days after the
149 sale due. Upon payment, a tax deed shall be issued and recorded
150 by the clerk. If the certificateholder fails to make full
151 payment when due, the clerk shall enter the land on a list
152 entitled "lands available for taxes."

153 (3) If the sale is canceled for any reason, or the buyer
154 fails to make full payment within the time required, the clerk
155 shall ~~immediately~~ readvertise the sale ~~to be held~~ within 30 days



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156 after the buyer's nonpayment or, if canceled, within 30 days
157 after the clerk receives the costs of resale. The sale shall be
158 held within 30 days after readvertising ~~after the date the sale~~
159 ~~was canceled.~~ Only one advertisement is necessary. The amount of
160 the opening bid shall be increased by the cost of advertising,
161 additional clerk's fees as provided for in s. 28.24(21), and
162 interest as provided for in subsection (1). If, at the
163 subsequent sale, there are no bidders at the tax deed sale and
164 the certificateholder fails to pay the moneys due within 30 days
165 after the sale, the clerk may not readvertise the sale and shall
166 place the property on a list entitled "lands available for
167 taxes." ~~This process must be repeated until the property is sold~~
168 ~~and the clerk receives full payment or the clerk does not~~
169 ~~receive any bids other than the bid of the certificateholder.~~
170 The clerk must receive full payment before the issuance of the
171 tax deed.

172 Section 8. Subsection (2) of section 197.582, Florida
173 Statutes, is amended, and subsection (3) is added to that
174 section, to read:

175 197.582 Disbursement of proceeds of sale.—

176 (2) If the property is purchased for an amount in excess of
177 the statutory bid of the certificateholder, the excess must be
178 paid over and disbursed by the clerk. If the property purchased
179 is homestead property and the statutory bid includes an amount
180 equal to at least one-half of the assessed value of the
181 homestead, that amount must be treated as excess and distributed
182 in the same manner. The clerk shall distribute the excess to the
183 governmental units for the payment of any lien of record held by
184 a governmental unit against the property, including any tax



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185 certificates not incorporated in the tax deed application and
186 omitted taxes, if any. If the excess is not sufficient to pay
187 all of such liens in full, the excess shall be paid to each
188 governmental unit pro rata. If, after all liens of governmental
189 units are paid in full, there remains a balance of undistributed
190 funds, the balance shall be retained by the clerk for the
191 benefit of persons described in s. 197.522(1)(a), except those
192 persons described in s. 197.502(4)(h), as their interests may
193 appear. The clerk shall mail notices to such persons notifying
194 them of the funds held for their benefit. Such notice
195 constitutes compliance with the requirements of s. 717.117(4).

196 Any service charges, at the rate prescribed in s. 28.24(10), and
197 costs of mailing notices shall be paid out of the excess balance
198 held by the clerk. Excess proceeds shall be held and disbursed
199 in the same manner as unclaimed redemption moneys in s. 197.473.
200 For purposes of identifying unclaimed property pursuant to s.
201 717.113, excess proceeds shall be presumed payable or
202 distributable on the date the notice is sent. If excess proceeds
203 are not sufficient to cover the service charges and mailing
204 costs, the clerk shall receive the total amount of excess
205 proceeds as a service charge.

206 (3) If unresolved claims against the property exist on the
207 date the property is purchased, the clerk shall ensure that the
208 excess funds are paid according to the priorities of the claims.
209 If a lien appears to be entitled to priority and the lienholder
210 has not made a claim against the excess funds, payment may not
211 be made on any lien that is junior in priority. If potentially
212 conflicting claims to the funds exist, the clerk may initiate an
213 interpleader action against the lienholders involved, and the



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214 court shall determine the proper distribution of the
215 interpleaded funds. The clerk may move the court for an award of
216 reasonable fees and costs from the interpleaded funds.

217 Section 9. This act shall take effect July 1, 2014.
218

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

220 And the title is amended as follows:

221 Delete everything before the enacting clause
222 and insert:

223 A bill to be entitled
224 An act relating to clerks of court; amending s. 40.32,
225 F.S.; authorizing jurors and witnesses to be paid by
226 check; amending s. 77.27, F.S.; conforming a provision
227 to changes made by the act; amending s. 77.28, F.S.;
228 requiring a party applying for garnishment to pay a
229 deposit to the garnishee, rather than in the registry
230 of the court; deleting a provision that requires the
231 clerk to collect a specified fee; amending s. 197.432,
232 F.S.; providing requirements for the sale of tax
233 certificates; amending s. 197.472, F.S.; revising
234 requirements for the redemption of tax certificates;
235 amending s. 197.502, F.S.; requiring the
236 certificateholder to pay costs of resale within 30
237 days under certain circumstances; providing
238 circumstances under which land shall be placed on a
239 specified list; deleting a provision relating to a
240 notification procedure; amending s. 197.542, F.S.;
241 requiring the certificateholder to pay a specified
242 amount of the assessed value of the homestead under



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243 certain circumstances; providing circumstances under
244 which land shall be placed on a specified list;
245 amending s. 197.582, F.S; clarifying notice
246 requirements; providing for excess proceeds relating
247 to unclaimed property; requiring the clerk to ensure
248 that excess funds are paid according to specified
249 priorities; providing for interpleader actions and the
250 award of reasonable fees and costs; providing an
251 effective date.



966052

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Ring)
recommended the following:

Senate Amendment to Amendment (895102)

Delete line 31

and insert:

expenses; deposit required. Upon ~~Before~~ issuance of any writ of

By the Committee on Judiciary; and Senator Ring

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1 A bill to be entitled
 2 An act relating to clerks of court; amending s. 40.32,
 3 F.S.; authorizing jurors and witnesses to be paid by
 4 check; amending s. 77.27, F.S.; conforming a provision
 5 to changes made by the act; amending s. 77.28, F.S.;
 6 requiring a party applying for garnishment to pay a
 7 deposit to the garnishee, rather than in the registry
 8 of the court; deleting a provision that requires the
 9 clerk to collect a specified fee; amending s. 197.432,
 10 F.S.; providing requirements for the sale of tax
 11 certificates; amending s. 197.472, F.S.; revising
 12 requirements for the redemption of tax certificates;
 13 amending s. 197.502, F.S.; requiring the
 14 certificateholder to pay costs of resale within 15
 15 days under certain circumstances; providing
 16 circumstances under which land shall be placed on a
 17 specified list; prohibiting a county from applying for
 18 a tax deed under certain circumstances; deleting a
 19 provision relating to a notification procedure;
 20 amending s. 197.542, F.S.; requiring the
 21 certificateholder to pay a specified amount of the
 22 assessed value of the homestead under certain
 23 circumstances; providing circumstances under which
 24 land shall be placed on a specified list; amending s.
 25 197.582, F.S.; clarifying notice requirements;
 26 providing for excess proceeds relating to unclaimed
 27 property; requiring the clerk to ensure that excess
 28 funds are paid according to specified priorities;
 29 providing for interpleader actions and the award of

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30 reasonable fees and costs; providing an effective
 31 date.
 32
 33 Be It Enacted by the Legislature of the State of Florida:
 34
 35 Section 1. Subsection (3) of section 40.32, Florida
 36 Statutes, is amended to read:
 37 40.32 Clerks to disburse money; payments to jurors and
 38 witnesses.—
 39 (3) Jurors and witnesses shall be paid by the clerk of the
 40 court ~~either~~ in cash, by check, or by warrant within 20 days
 41 after completion of jury service or ~~of~~ completion of service as
 42 a witness.
 43 (a) ~~If whenever~~ the clerk of the court pays a juror or
 44 witness by cash, the juror or witness shall sign the payroll in
 45 the presence of the clerk, a deputy clerk, or some other person
 46 designated by the clerk.
 47 (b) ~~If whenever~~ the clerk pays a juror or witness by
 48 warrant, he or she shall endorse on the payroll opposite the
 49 juror's or witness's name the words "Paid by warrant," giving
 50 the number and date of the warrant.
 51 Section 2. Section 77.27, Florida Statutes, is amended to
 52 read:
 53 77.27 No appeal until fees are paid.—If the writ is
 54 dismissed or plaintiff fails to sustain his or her claim, an ~~no~~
 55 appeal from the judgment is not ~~shall be~~ permitted until the
 56 attorney ~~attorney's~~ fee provided in s. 77.28 has been paid into
 57 court.
 58 Section 3. Section 77.28, Florida Statutes, is amended to

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59 read:

60 77.28 Garnishment; ~~attorney~~ attorney's fees, costs,
 61 expenses; deposit required.—Before issuance of any writ of
 62 garnishment, the party applying for it shall pay deposit \$100 ~~in~~
 63 ~~the registry of the court which shall be paid~~ to the garnishee
 64 on the garnishee's demand at any time after the service of the
 65 writ for the payment or part payment of his or her attorney
 66 attorney's fee which the garnishee expends or agrees to expend
 67 in obtaining representation in response to the writ. ~~At the time~~
 68 ~~of deposit, the clerk shall collect the statutory fee provided~~
 69 ~~by s. 28.24(10) in addition to the \$100 deposited into the~~
 70 ~~registry of the court.~~ On rendering final judgment, the court
 71 shall determine the garnishee's costs and expenses, including a
 72 reasonable attorney attorney's fee, and in the event of a
 73 judgment in favor of the plaintiff, the amount is shall be
 74 subject to offset by the garnishee against the defendant whose
 75 property or debt owing is being garnished. In addition, the
 76 court shall tax the garnishee's costs and expenses as costs. The
 77 plaintiff may recover in this manner the sum advanced by him or
 78 her plaintiff and paid into registry of court, and, if the
 79 amount allowed by the court is greater than the amount paid of
 80 the deposit, together with any offset, judgment for the
 81 garnishee shall be entered against the party against whom the
 82 costs are taxed for the deficiency.

83 Section 4. Subsection (4) of section 197.432, Florida
 84 Statutes, is amended to read:

85 197.432 Sale of tax certificates for unpaid taxes.—

86 (4) A tax certificate representing less than \$250 in
 87 delinquent taxes on property that has been granted a homestead

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88 exemption for the year in which the delinquent taxes were
 89 assessed may not be sold at public auction or by electronic sale
 90 as provided in subsection (1) but must be issued by the tax
 91 collector to the county at the maximum rate of interest allowed.
 92 ~~The provisions of s. 197.4725 or s. 197.502(3) may not be~~
 93 ~~invoked if the homestead exemption is granted to the person who~~
 94 ~~received the homestead exemption for the year in which the tax~~
 95 ~~certificate was issued.~~ However, if all of the outstanding such
 96 tax certificates and accrued interest and the current tax
 97 certificate represent an amount of \$250 or more, the current tax
 98 certificate must be offered for sale pursuant to subsection (1).
 99 A county that acquires a tax certificate pursuant to this
 100 subsection may not sell the tax certificate pursuant to s.
 101 197.4725 s. 197.502(3) shall be used to determine whether the
 102 county must apply for a tax deed.

103 Section 5. Subsection (1) of section 197.472, Florida
 104 Statutes, is amended to read:

105 197.472 Redemption of tax certificates.—

106 (1) A ~~Any~~ person may redeem a tax certificate at any time
 107 after the certificate is issued and before a tax deed is issued
 108 unless full payment for a tax deed is made to the clerk of the
 109 court, including documentary stamps and recording fees or the
 110 property is placed on the list of lands available for sale. The
 111 person redeeming a tax certificate shall pay the tax collector
 112 the face amount plus all interest, costs, and charges.

113 Section 6. Subsections (2), (3), and (7) of section
 114 197.502, Florida Statutes, are amended to read:

115 197.502 Application for obtaining tax deed by holder of tax
 116 sale certificate; fees.—

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117 (2) A certificateholder, other than the county, who makes
 118 application for a tax deed shall pay the tax collector at the
 119 time of application all amounts required for redemption or
 120 purchase of all other outstanding tax certificates, plus
 121 interest, any omitted taxes, plus interest, any delinquent
 122 taxes, plus interest, and current taxes, if due, covering the
 123 property. In addition, the certificateholder shall pay the costs
 124 of resale, if applicable, and failure to pay such costs within
 125 15 days after notice from the clerk shall result in the clerk's
 126 entering the land on a list entitled "lands available for
 127 taxes."

128 (3) The county in which the property described in the
 129 certificate is located shall apply for a tax deed on all county-
 130 held certificates on property valued at \$5,000 or more on the
 131 property appraiser's most recent assessment roll, except
 132 deferred payment tax certificates, and may apply for tax deeds
 133 on certificates on property valued at less than \$5,000 on the
 134 property appraiser's most recent assessment roll. The
 135 application shall be made 2 years after April 1 of the year of
 136 issuance of the certificates or as soon thereafter as is
 137 reasonable. Upon application, the county shall deposit with the
 138 tax collector all applicable costs and fees as provided in
 139 subsection (1), but may not deposit any money to cover the
 140 redemption of other outstanding certificates covering the
 141 property. However, a county may not apply for a tax deed on a
 142 certificate held by the county if, in the year for which the
 143 most recent tax certificate was issued to the county, the value
 144 of that tax certificate and the outstanding tax certificates and
 145 accrued interest represented an amount of less than \$250 and the

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

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146 homestead exemption was granted to a person who received the
 147 exemption for that year.

148 (7) On county-held or individually held certificates for
 149 which there are no bidders at the public sale and for which the
 150 certificateholder fails to timely pay costs of resale or fails
 151 to pay the amounts due for issuance of a tax deed within 15 days
 152 after the sale, the clerk shall enter the land on a list
 153 entitled "lands available for taxes" and shall immediately
 154 notify the county commission ~~and all other persons holding~~
 155 ~~certificates against the property~~ that the property is
 156 available. During the first 90 days after the property is placed
 157 on the list, the county may purchase the land for the opening
 158 bid or may waive its rights to purchase the property.
 159 Thereafter, any person, the county, or any other governmental
 160 unit may purchase the property from the clerk, without further
 161 notice or advertising, for the opening bid, except that if the
 162 county or other governmental unit is the purchaser for its own
 163 use, the board of county commissioners may cancel omitted years'
 164 taxes, as provided under s. 197.447. ~~If the county does not~~
 165 ~~elect to purchase the property, the county must notify each~~
 166 ~~legal titleholder of property contiguous to the property~~
 167 ~~available for taxes, as provided in paragraph (4)(h), before~~
 168 ~~expiration of the 90-day period.~~ Interest on the opening bid
 169 continues to accrue through the month of sale as prescribed by
 170 s. 197.542.

171 Section 7. Subsections (1) and (3) of section 197.542,
 172 Florida Statutes, are amended to read:

173 197.542 Sale at public auction.—

174 (1) Real property advertised for sale to the highest bidder

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175 as a result of an application filed under s. 197.502 shall be
 176 sold at public auction by the clerk of the circuit court, or his
 177 or her deputy, of the county where the property is located on
 178 the date, at the time, and at the location as set forth in the
 179 published notice, which must be during the regular hours the
 180 clerk's office is open. The amount required to redeem the tax
 181 certificate, plus the amounts paid by the holder to the clerk in
 182 charges for costs of sale, redemption of other tax certificates
 183 on the same property, and all other costs to the applicant for
 184 tax deed, plus interest at the rate of 1.5 percent per month for
 185 the period running from the month after the date of application
 186 for the deed through the month of sale and costs incurred for
 187 the service of notice provided for in s. 197.522(2), shall be
 188 the bid of the certificateholder for the property. If tax
 189 certificates exist or if delinquent taxes accrued subsequent to
 190 the filing of the tax deed application, the amount required to
 191 redeem such tax certificates or pay such delinquent taxes must
 192 be included in the minimum bid. However, if the land to be sold
 193 is assessed on the latest tax roll as homestead property, the
 194 bid of the certificateholder must be increased to include an
 195 amount equal to one-half of the assessed value of the homestead
 196 property as required by s. 197.502. If there are no higher bids,
 197 the property shall be struck off and sold to the
 198 certificateholder, who shall pay to the clerk any amounts
 199 included in the minimum bid, the documentary stamp tax, the and
 200 recording fees, and, if the property is homestead property, the
 201 moneys to cover the one-half value of the homestead within 15
 202 days after the sale ~~due~~. Upon payment, a tax deed shall be
 203 issued and recorded by the clerk. If the certificateholder fails

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204 to make full payment when due, the clerk shall enter the land on
 205 a list entitled "lands available for taxes."
 206 (3) If the sale is canceled for any reason, or the buyer
 207 fails to make full payment within the time required, the clerk
 208 shall ~~immediately~~ readvertise the sale ~~to be held~~ within 30 days
 209 after the buyer's nonpayment or, if canceled, within 30 days
 210 after the clerk receives the costs of resale. The sale shall be
 211 held within 30 days after readvertising ~~after the date the sale~~
 212 ~~was canceled~~. Only one advertisement is necessary. The amount of
 213 the opening bid shall be increased by the cost of advertising,
 214 additional clerk's fees as provided for in s. 28.24(21), and
 215 interest as provided for in subsection (1). If, at the
 216 subsequent sale, there are no bidders at the tax deed sale and
 217 the certificateholder fails to pay the moneys due within 15 days
 218 after the sale, the clerk may not readvertise the sale and shall
 219 place the property on a list entitled "lands available for
 220 taxes." This process must be repeated until the property is sold
 221 ~~and the clerk receives full payment or the clerk does not~~
 222 ~~receive any bids other than the bid of the certificateholder.~~
 223 The clerk must receive full payment before the issuance of the
 224 tax deed.
 225 Section 8. Subsection (2) of section 197.582, Florida
 226 Statutes, is amended, and subsection (3) is added to that
 227 section, to read:
 228 197.582 Disbursement of proceeds of sale.—
 229 (2) If the property is purchased for an amount in excess of
 230 the statutory bid of the certificateholder, the excess must be
 231 paid over and disbursed by the clerk. If the property purchased
 232 is homestead property and the statutory bid includes an amount

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233 equal to at least one-half of the assessed value of the
 234 homestead, that amount must be treated as excess and distributed
 235 in the same manner. The clerk shall distribute the excess to the
 236 governmental units for the payment of any lien of record held by
 237 a governmental unit against the property, including any tax
 238 certificates not incorporated in the tax deed application and
 239 omitted taxes, if any. If the excess is not sufficient to pay
 240 all of such liens in full, the excess shall be paid to each
 241 governmental unit pro rata. If, after all liens of governmental
 242 units are paid in full, there remains a balance of undistributed
 243 funds, the balance shall be retained by the clerk for the
 244 benefit of persons described in s. 197.522(1)(a), except those
 245 persons described in s. 197.502(4)(h), as their interests may
 246 appear. The clerk shall mail notices to such persons notifying
 247 them of the funds held for their benefit. Such notice
 248 constitutes compliance with the requirements of s. 717.117(4).
 249 Any service charges, at the rate prescribed in s. 28.24(10), and
 250 costs of mailing notices shall be paid out of the excess balance
 251 held by the clerk. Excess proceeds shall be held and disbursed
 252 in the same manner as unclaimed redemption moneys in s. 197.473.
 253 For purposes of identifying unclaimed property pursuant to s.
 254 717.113, excess proceeds shall be presumed payable or
 255 distributable on the date the notice is sent. If excess proceeds
 256 are not sufficient to cover the service charges and mailing
 257 costs, the clerk shall receive the total amount of excess
 258 proceeds as a service charge.
 259 (3) If unresolved claims against the property exist on the
 260 date the property is purchased, the clerk shall ensure that the
 261 excess funds are paid according to the priorities of the claims.

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262 If a lien appears to be entitled to priority and the lienholder
 263 has not made a claim against the excess funds, payment may not
 264 be made on any lien that is junior in priority. If potentially
 265 conflicting claims to the funds exist, the clerk may initiate an
 266 interpleader action against the lienholders involved, and the
 267 court shall determine the proper distribution of the
 268 interpleaded funds. The clerk may move the court for an award of
 269 reasonable fees and costs from the interpleaded funds.
 270 Section 9. This act shall take effect July 1, 2014.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/CS/SB 898

INTRODUCER: Appropriations Subcommittee on Finance and Tax; Commerce and Tourism Committee; Communications, Energy, and Public Utilities Committee; and Senators Abruzzo and Soto

SUBJECT: Communications Services Tax

DATE: April 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	<u>Fav/CS</u>
2.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>CM</u>	<u>Fav/CS</u>
3.	<u>Cote</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	<u>Fav/CS</u>
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 898 excludes certain data processing services delivered by electronic transmission from the communications services tax by including such services in the definition of “information services.” Information services are not included within the definition of “communication services,” and are not subject to communications services tax.

The bill states that “the amendments made by this act to s. 202.11, Florida Statutes, are remedial in nature and apply retroactively, but do not provide a basis for the assessment of any tax not paid or create a right to a refund or credit of any tax paid before the effective date of this act.”.

The bill has no revenue impact because the change is a clarification that aligns the statutes with current administrative practice.

II. Present Situation:

Chapter 202, F.S., imposes a communications services tax on “retail sales of communications services which originate and terminate in Florida, or originate or terminate in Florida and are

billed to a Florida address.”¹ Communication services include telecommunications, cable, direct-to-home satellite, and related services.² The communication services tax includes a state tax rate of 6.65 percent and a gross receipts tax rate of 2.52 percent for a combined rate of 9.17 percent.³ In addition, local governments impose a local tax rate of up to 7.12 percent.⁴

The communications services tax is applied to the retail sales price of each taxable communications service.⁵ The definition of “communications services” specifically excludes “information services” and therefore they are not subject to the communication services tax.⁶ “Information services” are defined as “the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, using, or making available information via communications services.”⁷ Information services include electronic publishing, web-hosting services, and end-user 900 number services.

The state taxes collected are deposited into the General Revenue Fund and a portion is distributed to local governments.⁸ Gross receipts tax collections are deposited into the Public Education Capital Outlay and Debt Service Trust Fund and are used to fund public schools’, community colleges’, and universities’ capital projects. The Department of Revenue provides tax collection services for local governments, and local communication services taxes are distributed to local governments.

III. Effect of Proposed Changes:

The bill specifically excludes certain data processing services delivered by electronic transmission from the communications services tax by including such services in the definition of “information services.”

Section 1 amends s. 202.11(5), F.S., to include in the definition of “information services” data processing and other services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the purchaser’s primary purpose for the underlying transaction is the data or information.

Section 2 states that “the amendments made by this act to s. 202.11, Florida Statutes, are remedial in nature and apply retroactively, but do not provide a basis for the assessment of any tax not paid or create a right to a refund or credit of any tax paid before the effective date of this act.”

Section 3 provides an effective date of upon becoming law.

¹ Florida Revenue Estimating Conference, 2014 Florida Tax Handbook, at p. 55.

² Chapter 202, F.S.

³ See ss. 202.12(1)(a) and 203.01(1)(b), F.S. The gross receipts tax is 2.37 percent, plus an additional 0.15 percent for certain services. Local, long distance, and toll telephone services sold to a residential household are exempt from the 6.65 percent state tax and 0.15 percent gross receipts tax.

⁴ Section 202.19, F.S.

⁵ Section 202.12, F.S.

⁶ Section 202.11(1)(a) and (5), F.S.

⁷ Section 202.11(5), F.S.

⁸ Section 202.18, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that CS/CS/CS/SB 898 will have no revenue impact because the change is a clarification that aligns the statutes with current administrative practice.⁹

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 202.11 of the Florida Statutes.

This bill creates an undesignated section of Florida Law.

⁹ Revenue Estimating Conference, HB 803 Draft Language, consensus estimate adopted 3/21/2014.

IX. Additional Information:

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

Recommended CS/CS/CS by Appropriations Subcommittee on Finance and Tax on April 2, 2014:

The committee substitute clarifies that “the amendments made by this act to s. 202.11, Florida Statutes, are remedial in nature and apply retroactively, but do not provide a basis for the assessment of any tax not paid or create a right to a refund or credit of any tax paid before the effective date of this act.”

CS/CS by Commerce and Tourism on March 24, 2014:

The committee substitute amends the definition of “information services” to include certain data processing services. This change excludes such services from the communications services tax, because information services are not communication services subject to the tax.

The bill previously had excluded from the definition of “sales price” for the communications services tax the sale of communications services between a franchisor and its franchisee, which excluded such services from the communications services tax.

CS by Communications, Energy, and Public Utilities on March 4, 2014:

The committee substitute completely rewrites the proposed exemption from the term “sales tax” for purposes of the Communications Services Tax. It exempts the sale of communications services between a franchisor and its franchisee, defining the term “franchisee” to mean any entity, including a related company, using the franchisor’s service mark, whether by license, management agreement, or by a subsidiary or affiliate of the franchisor.

The bill also states that it is a clarification of existing law, and a tax may not be assessed or collected with respect to any charge or portion thereof described in s. 202.11(13)(b), F.S., as amended by this act, for periods before or after the effective date of this act.

- B. **Amendments:**

None.



121496

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2014	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Abruzzo)
recommended the following:

Senate Amendment

Delete lines 24 - 28
and insert:

Section 2. The amendments made by this act to s. 202.11, Florida Statutes, are remedial in nature and apply retroactively, but do not provide a basis for the assessment of any tax not paid or create a right to a refund or credit of any tax paid before the effective date of this act.

By the Committees on Commerce and Tourism; and Communications,
Energy, and Public Utilities; and Senators Abruzzo and Soto

577-03119A-14

2014898c2

1 A bill to be entitled
2 An act relating to the communications services tax;
3 amending s. 202.11, F.S.; revising the definition of
4 the term "information services" to include certain
5 data processing and other services; providing
6 applicability; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (5) of section 202.11, Florida
11 Statutes, is amended to read:
12 202.11 Definitions.—As used in this chapter, the term:
13 (5) "Information service" means the offering of a
14 capability for generating, acquiring, storing, transforming,
15 processing, retrieving, using, or making available information
16 via communications services, including, but not limited to,
17 electronic publishing, web-hosting service, and end-user 900
18 number service. The term includes data processing and other
19 services that allow data to be generated, acquired, stored,
20 processed, or retrieved and delivered by an electronic
21 transmission to a purchaser where such purchaser's primary
22 purpose for the underlying transaction is the processed data or
23 information. The term does not include video service.
24 Section 2. This act is a clarification of existing law, and
25 no tax may be assessed or collected with respect to any charge
26 or portion thereof described in s. 202.11(5), Florida Statutes,
27 as amended by this act, for periods before or after the
28 effective date of this act.
29 Section 3. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/14
Meeting Date

Topic _____

Bill Number 134
(if applicable)

Name Frank Meiners

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 1633

Phone 591-0177

Self FL 32302
City State Zip

E-mail frank@chqmail.com

Speaking: For Against Information

Representing AIF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/14

Meeting Date

Topic ~~General~~ Agriculture

Bill Number SB 312
(if applicable)

Name Brewster Bevis

Amendment Barcode _____
(if applicable)

Job Title Senior Vice President

Address 516 W. Adams St

Phone 774-7173

Street

Tallahassee FL 32301

E-mail bbevis@aificon

City

State

Zip

Speaking: For Against Information

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/14

Meeting Date

Topic

Agriculture

Bill Number

312

(if applicable)

Name

Adam Basford

Amendment Barcode

(if applicable)

Job Title

Legislative Affairs Director

Address

315 S Calhoun St

Phone

222-2557

Street

Vallahassee

FL

32301

City

State

Zip

E-mail

Speaking:

For

Against

Information

Representing

Florida Farm Bureau

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/14

Meeting Date

Topic Agriculture

Bill Number 312
(if applicable)

Name Martha W. Cleaver

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address P.O. Box 11284

Phone 850/491-1945

Tallahassee FL 32302
City State Zip

E-mail marthacleaver@fapa.net

Speaking: For Against Information

Representing FL Assoc. of Property Appraisers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/14

Meeting Date

Topic Agriculture Bill Number 312
(if applicable)

Name Angela Gray Amendment Barcode _____
(if applicable)

Job Title Jefferson County Property Appraiser

Address 480 W. Walnut Phone 850/997-3356
Street

Monticello FL 32344 E-mail angela.gray@jeffersonpa.net
City State Zip

Speaking: For Against Information

Representing Jefferson County Property Appraiser's office

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/14
Meeting Date

Topic _____

Bill Number 342
(if applicable)

Name Frank Meiners

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 1633

Phone 591-0177

Idell FL 32502
City State Zip

E-mail frank@chgrmail.com

Speaking: For Against Information

Representing AIF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-2-14
Meeting Date

Topic Community Cont. Tax Credit

Bill Number SB 474
(if applicable)

Name Barbara Inman

Amendment Barcode _____
(if applicable)

Job Title President/CEO

Address 2605 Enterprise Rd E
Street

Phone 727-742-9616

Clearwater FL 33759
City State Zip

E-mail ceo@habitatflorida.org

Speaking: For Against Information

Representing Habitat for Humanity of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4.2.14

Meeting Date

Topic Defense Contractors

Bill Number 596
(if applicable)

Name Sarah Busk

Amendment Barcode _____
(if applicable)

Job Title _____

Address 215 S. Monroe St #602

Phone 222.8900

Street TLH FL 32301
City *State* *Zip*

E-mail sjb@cardenaspartners.com

Speaking: For Against Information

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/14
Meeting Date

Topic Defense Subcontracting

Bill Number 596
(if applicable)

Name Joe Marino

Amendment Barcode _____
(if applicable)

Job Title President

Address 4067 Roscrea Dr

Phone 850 320 8780

Street

Tall

City

FL

State

32309

Zip

E-mail _____

Speaking: For Against Information

Representing Florida Defense Contractors Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2/14

~~5/2/14~~

Meeting Date

Topic Defense Contracting

Bill Number SB 5914
(if applicable)

Name Carolyn Johnson

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 130 S Bronough St

Phone 521-1235

Street

Tallahassee

City

State

Zip

E-mail cjohnson@flchamber.com

Speaking: For Against Information

Representing FL Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/2

Meeting Date

Topic EST on Prepaid

Bill Number SB 712
(if applicable)

Name Woody Simmins

Amendment Barcode _____
(if applicable)

Job Title VP Court Affairs

Address 106 E. College Ave

Phone 222-6304

Tallahassee FL 32301
Street City State Zip

E-mail Woody@simmins.com
a.verizon.com

Speaking: For Against Information

Representing Verizon

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/14
Meeting Date

Topic Prepaid Calling Arrangement Bill Number 712
Name J. C. Flores Amendment Barcode _____
(if applicable)

Job Title Regional Director External Affairs
(if applicable)

Address 150 W. FLAGLER ST. Phone 305-347-5406
Street
Miami FL 33130
City State Zip
E-mail JF323W@att.com

Speaking: For Against Information

Representing AT&T - WAVE IN support.

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/12/14
Meeting Date

Topic Pre Paid calling Arrangements

Bill Number SB 712
(if applicable)

Name Brewster Bevis

Amendment Barcode _____
(if applicable)

Job Title Senior Vice President

Address 516 W. Adams St

Phone 224-7173

Tallahassee FL 32301
Street City State Zip

E-mail bbevis@aifi.com

Speaking: For Against Information

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

~~March~~ 4/2

Meeting Date

Topic _____

Bill Number 712
(if applicable)

Name Diana Ferguson

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 179 S Monroe St Ste 202

Phone 850-481-6788

Street

Talco

City

FL

State

32308

Zip

E-mail dferguson@eyplaw.com

Speaking: For Against Information

Representing I-Mobile

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Bill # 788 Bill Number 788
(if applicable)

Name Naren Rushing Amendment Barcode _____
(if applicable)

Job Title Clerk & Comptroller FL Clerks

Address P.O. Box 3079 Phone 941-861-7605
Street

Sarasota FL E-mail krushing@se.gov.net
City State Zip

Speaking: For Against Information

Representing FL Clerks & Comptroller

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/14
Meeting Date

Topic CST

Bill Number SB 898
(if applicable)

Name Carolyn Johnson

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 136 S Bronaugh St
Street
Tallahassee
City State Zip

Phone 521-1235

E-mail _____

Speaking: For Against Information

Representing FL Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/14
Meeting Date

Topic _____

Bill Number 898
(if applicable)

Name Frank Meiners

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 1633

Phone 591-0177

Teel FL 32503
City State Zip

E-mail frank@chqwest.com

Speaking: For Against Information

Representing ASF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

CourtSmart Tag Report

Room: LL 37

Case:

Type:

Caption: Senate Appropriations Subcommittee on Finance and Tax

Judge:

Started: 4/2/2014 1:05:28 PM

Ends: 4/2/2014 1:35:39 PM Length: 00:30:12

1:05:31 PM Sen. Hukill (chair)
1:05:51 PM Roll Call
1:06:08 PM Sen. Hukill
1:06:26 PM S 712
1:06:32 PM Sen. Galvano
1:07:10 PM Sen. Hukill
1:07:22 PM Woody Simmons, VP Government Affairs, Verizon (waives in support)
1:07:29 PM J. C. Flores, Regional Director External Affairs, AT&T (waives in support)
1:07:33 PM Brewster Bevis, Senior VP, Associated Industries of Florida (waives in support)
1:07:42 PM Diana Ferguson, Attorney, T-Mobile (waives in support)
1:07:48 PM Sen. Hukill
1:08:09 PM Vote
1:08:32 PM Sen. Hukill
1:08:42 PM S 362
1:08:46 PM Sen. Bradley
1:09:23 PM Sen. Hukill
1:09:28 PM Sen. Altman
1:09:34 PM Sen. Hukill
1:09:38 PM Sen. Bradley
1:10:16 PM Sen. Hukill
1:10:22 PM Sen. Clemons
1:10:29 PM Sen. Bradley
1:10:40 PM Sen. Hukill
1:10:42 PM Sen. Clemons
1:10:46 PM Sen. Altman
1:10:49 PM Sen. Bradley
1:10:59 PM Sen. Hukill
1:11:13 PM Sen. Evers
1:11:18 PM Sen. Hukill
1:11:22 PM Sen. Evers
1:11:27 PM Sen. Bradley
1:12:07 PM Sen. Evers
1:12:25 PM Sen. Bradley
1:12:29 PM Sen. Evers
1:12:31 PM Sen. Bradley
1:12:47 PM Sen. Evers
1:13:05 PM Sen. Bradley
1:13:12 PM Sen. Evers
1:13:14 PM Sen. Hukill
1:13:20 PM Sen. Bradley
1:13:22 PM Sen. Hukill
1:13:28 PM Vote
1:13:51 PM Sen. Hukill
1:13:56 PM Sen. Bradley
1:13:58 PM Sen. Hukill
1:14:03 PM S 312
1:14:10 PM Am. 312276
1:14:13 PM Sen. Simpson
1:14:16 PM Sen. Hukill
1:14:18 PM Sen. Simpson
1:15:23 PM Sen. Hukiill
1:15:37 PM Sen. Simpson

1:15:40 PM Sen. Hukill
1:15:46 PM Sen. Clemons
1:15:51 PM Sen. Hukill
1:16:13 PM S 312 (as amended)
1:16:19 PM B. Bevis (waives in support)
1:16:27 PM Adam Basford, Legislative Affairs Director, Florida Farm Bureau (waives in support)
1:16:35 PM Martha Cleaver, Lobbyist, Florida Association of Property Appraisers (waives in support)
1:16:41 PM Frank Meiners, AIF (waives in support)
1:16:51 PM Sen. Hukill
1:17:00 PM Angela Gray, Property Appraiser, Jefferson County Property Appraiser's Office
1:17:08 PM Sen. Hukill
1:17:15 PM Sen. Simpson
1:17:17 PM Sen. Hukill
1:17:45 PM Vote
1:18:00 PM Sen. Hukill
1:18:12 PM S 474
1:18:17 PM Sen. Simpson
1:18:43 PM Sen. Hukill
1:18:48 PM Am. 207962
1:18:54 PM Sen. Ring
1:18:57 PM Sen. Hukill
1:19:00 PM Sen. Simpson
1:19:47 PM Sen. Hukill
1:20:03 PM S 474 (as amended)
1:20:12 PM Barbara Inman, President/CEO, Habitat for Humanity of Florida (waives in support)
1:20:29 PM Sen. Hukill
1:20:34 PM Sen. Simpson
1:20:37 PM Sen. Hukill
1:20:53 PM Vote
1:21:19 PM Sen. Hukill
1:21:33 PM Sen. Abruzzo
1:21:43 PM Sen. Hukill
1:21:47 PM Sen. Brandes
1:21:51 PM Sen. Hukill
1:21:55 PM Sen. Sachs
1:22:14 PM Sen. Hukill
1:22:16 PM S 898
1:22:25 PM Sen. Abruzzo
1:22:40 PM Sen. Hukill
1:22:42 PM Am. 121496
1:22:48 PM Sen. Abruzzo
1:23:00 PM Sen. Hukill
1:23:16 PM S 898 (as amended)
1:23:32 PM Sen. Abruzzo
1:23:33 PM Sen. Hukill
1:23:56 PM Vote
1:24:30 PM Sen. Hukill
1:24:42 PM Carolyn Johnson, Policy Director, Florida Chamber of Commerce (waives in support)
1:24:47 PM F. Meiners (waives in support)
1:24:52 PM Sen. Hukill
1:24:59 PM S 788
1:25:08 PM Sen. Ring
1:25:46 PM Sen. Hukill
1:25:55 PM Am. 895102
1:26:03 PM Sen. Ring
1:26:05 PM Sen. Hukill
1:26:20 PM Am. 966052
1:26:24 PM Sen. Hukill
1:26:30 PM Sen. Ring
1:26:33 PM Sen. Hukill
1:26:59 PM Am. 895102 (as amended)
1:27:06 PM Sen. Hukill

1:27:15 PM S 788 (as amended)
1:27:23 PM Karen Rushing, Clerk, Florida Clerks and Comptrollers
1:27:35 PM Sen. Hukill
1:27:45 PM Sen. Ring
1:27:48 PM Sen. Hukill
1:28:02 PM Vote
1:28:18 PM Sen. Hukill
1:28:30 PM S 596
1:28:35 PM Sen. Evers
1:28:41 PM Am. 731766
1:28:46 PM Sen. Evers
1:29:26 PM Sen. Hukill
1:29:34 PM Am. 113672
1:29:42 PM Sen. Hukill
1:29:48 PM Sen. Evers
1:30:01 PM Sen. Hukill
1:30:28 PM Am. 731766 (as amended)
1:30:34 PM Sen. Hukill
1:30:42 PM S 596 (as amended)
1:30:44 PM Sen. Hukill
1:30:49 PM C. Johnson (waives in support)
1:30:54 PM Joe Marino, President, Florida Defense Contractors Association (waives in support)
1:31:01 PM Sarah Busk, Associated Industries of Florida (waives in support)
1:31:07 PM Sen. Hukill
1:31:17 PM Sen. Evers
1:31:19 PM Sen. Hukill
1:31:38 PM Vote
1:31:59 PM Sen. Hukill
1:32:13 PM Sen. Ring (in the chair)
1:32:17 PM S 134
1:32:21 PM Sen. Hukill
1:32:50 PM Sen. Ring
1:32:51 PM Am. 978618
1:32:56 PM Sen. Hukill
1:33:06 PM Sen. Ring
1:33:11 PM F. Meiners (waives in support)
1:33:19 PM Sen. Ring
1:33:20 PM Sen. Hukill
1:33:23 PM Sen. Clemons
1:33:31 PM Sen. Ring
1:33:34 PM Sen. Clemons
1:33:49 PM Sen. Ring
1:33:53 PM Sen. Hukill
1:34:08 PM Sen. Ring
1:34:17 PM Vote
1:34:50 PM Sen. Ring
1:34:57 PM Sen. Hukill (in the chair)
1:35:00 PM Sen. Ring
1:35:20 PM Sen. Evers
1:35:23 PM Sen. Hukill
1:35:25 PM Sen. Clemons
1:35:30 PM Sen. Hukill