

Tab 1 CS/SB 750 by CA, Gruters; (Similar to CS/H 00337) Impact Fees

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|--------|----|---|-----|-------------|-------------------|----------------|
| 434354 | A | S | RCS | FT, Gruters | Delete L.32 - 34: | 04/01 10:38 AM |
| 427800 | AA | S | RCS | FT, Gruters | Delete L.7 - 8: | 04/01 10:38 AM |
| 538136 | A | S | RS | FT, Gruters | Delete L.85 - 94: | 04/01 10:38 AM |
| 380906 | SA | S | RCS | FT, Gruters | Delete L.85 - 94: | 04/01 10:38 AM |

Tab 2 CS/SB 908 by CF, Rodrigues; (Similar to CS/H 00897) Strong Families Tax Credit

| | | | | | | |
|--------|----|---|-----|---------------|---------------------|----------------|
| 482760 | A | S | RCS | FT, Rodrigues | Delete L.219 - 398: | 04/01 10:38 AM |
| 717216 | AA | S | RCS | FT, Cruz | Delete L.97 - 99: | 04/01 10:38 AM |
| 764374 | A | S | WD | FT, Berman | Delete L.317 - 321: | 04/01 10:38 AM |

Tab 3 SB 1254 by Bean; (Compare to H 01519) Ad Valorem Assessments

| | | | | | | |
|--------|---|---|-----|----------|---------------------|----------------|
| 977590 | A | S | RCS | FT, Bean | Delete L.158 - 251: | 04/01 10:39 AM |
|--------|---|---|-----|----------|---------------------|----------------|

Tab 4 SB 1444 by Wright; (Identical to H 01161) Florida Small Manufacturing Business Recovery Act

| | | | | | | |
|--------|---|---|----|------------|---------------------|----------------|
| 779020 | A | S | TP | FT, Wright | Delete L.198 - 225: | 03/31 02:06 PM |
|--------|---|---|----|------------|---------------------|----------------|

Tab 5 SB 1592 by Burgess (CO-INTRODUCERS) Diaz, Albritton; (Similar to H 01239) Broadband Internet Infrastructure

| | | | | | | |
|--------|---|---|-----|-------------|---------------------|----------------|
| 803062 | A | S | RCS | FT, Burgess | Delete L.97 - 124: | 04/01 10:40 AM |
| 129940 | A | S | RCS | FT, Burgess | Delete L.141 - 279: | 04/01 10:40 AM |
| 404422 | A | S | RCS | FT, Burgess | btw L.279 - 280: | 04/01 10:40 AM |

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FINANCE AND TAX
Senator Rodriguez, Chair
Senator Cruz, Vice Chair

MEETING DATE: Wednesday, March 31, 2021
TIME: 11:00 a.m.—12:30 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Building

MEMBERS: Senator Rodriguez, Chair; Senator Cruz, Vice Chair; Senators Berman, Harrell, Hooper, Jones, Rodrigues, and Wright

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|-------------------------|--|------------------|
|-----|-------------------------|--|------------------|

PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A1 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301

| | | | |
|---|--|---|-------------------------|
| 1 | CS/SB 750 Community Affairs / Gruters (Similar CS/H 337) | Impact Fees; Requiring local governments and special districts to credit against the collection of impact fees any contribution related to public facilities; providing limitations on impact fee increases; providing for retroactive operation; requiring specified entities to submit an affidavit attesting that impact fees were appropriately collected and expended; requiring school districts to report specified information regarding impact fees, etc. CA 03/24/2021 Fav/CS FT 03/31/2021 Fav/CS AP | Fav/CS Yeas 6 Nays 2 |
| 2 | CS/SB 908 Children, Families, and Elder Affairs / Rodrigues (Similar CS/H 897) | Strong Families Tax Credit; Providing credits against oil and gas production taxes and sales taxes payable by direct pay permitholders, respectively, under the Strong Families Tax Credit; revising the calculation of the corporate income tax credit for the Florida alternative minimum tax; creating the Strong Families Tax Credit; specifying requirements for the Department of Children and Families in designating eligible charitable organizations; providing credits against excise taxes on certain alcoholic beverages and the insurance premium tax, respectively, under the Strong Families Tax Credit, etc. CF 03/23/2021 Fav/CS FT 03/31/2021 Fav/CS AP | Fav/CS Yeas 8 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Finance and Tax

Wednesday, March 31, 2021, 11:00 a.m.—12:30 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|--|-------------------------|
| 3 | SB 1254 Bean (Compare H 1519) | Ad Valorem Assessments; Adding exceptions to the definition of the term "change of ownership" for purposes of a certain homestead assessment limitation; providing that changes, additions, or improvements, including ancillary improvements, to nonhomestead residential property damaged or destroyed by misfortune or calamity must be assessed upon substantial completion; providing that certain changes, additions, or improvements must be reassessed at just value in subsequent years, etc. CA 03/24/2021 Favorable FT 03/31/2021 Fav/CS AP | Fav/CS Yeas 8 Nays 0 |
| 4 | SB 1444 Wright (Identical H 1161) | Florida Small Manufacturing Business Recovery Act; Creating the "Florida Small Manufacturing Business Recovery Act"; requiring the Department of Economic Opportunity to accept applications for certification of relief funds and relief contributions in a specified manner; prohibiting the department from approving more than a specified amount of relief investment authority and relief contributions; authorizing applicants whose applications were denied to provide additional information within a certain timeframe to cure defects in their applications; authorizing nonrefundable tax credits for owners of tax credit certificates issued by the department, etc. CM 03/15/2021 Favorable FT 03/31/2021 Not Considered AP | Not Considered |
| 5 | SB 1592 Burgess (Similar H 1239) | Broadband Internet Infrastructure; Citing this act as the "Florida Broadband Deployment Act of 2021"; exempting the purchase, lease, or sale of certain equipment used by a provider of communications services or a provider of Internet access services in this state from the sales and use tax; requiring municipal electric utilities to ensure that their broadband provider rates and fees meet certain requirements, make certain records available to broadband providers, and establish just and reasonable terms and conditions for broadband provider attachments; prohibiting municipal electric utilities from prohibiting a broadband provider from using certain techniques and equipment if used in accordance with certain safety standards, etc. RI 03/09/2021 Favorable FT 03/31/2021 Fav/CS AP | Fav/CS Yeas 6 Nays 2 |

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 750

INTRODUCER: Finance and Tax Committee; Community Affairs Committee; and Senator Gruters

SUBJECT: Impact Fees

DATE: March 31, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|---------------|
| 1. | <u>Hackett</u> | <u>Ryon</u> | <u>CA</u> | Fav/CS |
| 2. | <u>Kim</u> | <u>Babin</u> | <u>FT</u> | Fav/CS |
| 3. | _____ | _____ | <u>AP</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 750 makes a number of changes regarding limitations on, and requirements for, the imposition of impact fees by local governments to fund local infrastructure to meet the demands of population growth.

The bill defines the terms “infrastructure” and “public facilities” to specify that impact fees may be utilized only for fixed capital expenditures or fixed capital outlays for major capital improvements.

In addition to local governments, the bill requires special districts to credit against the collection of an impact fee any contribution for the general category or class of public facilities or infrastructure for which the impact fee was collected. The requirement to credit contributions is expanded to apply to contributions related to all public facilities or infrastructure, rather than only public education facilities under current law. All credits against impact fee collections must be made regardless of any provision in local government or special district charter, comprehensive plan policy, ordinance, resolution, or development order or permit.

The bill provides local governments, school districts, and special districts may only increase impact fees as follows:

- For an increase of not more than 25 percent, the increase must be implemented in two equal annual increments;

- For an increase of between 25 and 50 percent, the increase must be implemented in four equal annual increments;
- Impact fees may not be increased by more than 50 percent; and
- Impact fees may not be increased more than once every four years.

However, local governments, school districts, and special districts may bypass the prescribed impact fee increase limitations if a proposed increase complies with certain impact fee requirements in current law, including adherence to the rational nexus test. Additionally, impact fees may not be increased retroactively for a previous or current fiscal or calendar year. The bill's impact fee increase provisions operate retroactively to January 1, 2021.

The bill revises a current affidavit requirement by providing that a local government, school district, or special district must submit with its annual financial report or its financial audit report an affidavit signed by its chief financial officer attesting that all impact fees were collected and expended in full compliance with the spending period provision in the local ordinance or resolution, and that the funds were expended only for the uses allowed under the statute.

Finally, the bill adds school districts to a list of entities that must report additional information relating to their impact fees charged.

The Revenue Estimating Conference determined that the bill will have a negative indeterminate fiscal impact to local governments and school districts.

The bill takes effect upon becoming a law.

II. Present Situation:

Local Government Authority

The State Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹ Those counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.² Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.³

Under the State Constitution, local governments have no authority to levy taxes, other than ad valorem taxes, except as provided by general law.⁴ However, local governments have authority under their home rule authority to impose special assessments and user fees.⁵

¹ FLA. CONST. art. VIII, s. 1(f).

² FLA. CONST. art. VIII, s. 1(g).

³ FLA. CONST. art. VIII, s. 2(b); s. 166.021(1), F.S.

⁴ *Collier County v. State*, 733 So. 2d 1012, 1014 (Fla. 1999).

⁵ *Id.*

Local Government Impact Fees

In Florida, impact fees are imposed pursuant to local legislation and are generally charged as a condition for the issuance of a project's building permit. The principle behind the imposition of impact fees is to transfer to new users of a government-owned system a fair share of the costs the new use of the system involves.⁶ Impact fees have become an accepted method of paying for public improvements that must be constructed to serve new growth.⁷ In order for an impact fee to be a constitutional user fee and not an unconstitutional tax, the fee must meet a dual rational nexus test, in that the local government must demonstrate the impact fee is proportional and reasonably connected to, or has a rational nexus with:

- The need for additional capital facilities and the increased impact generated by the new residential or commercial construction; and
- The expenditures of the funds collected and the benefits accruing to the new residential or nonresidential construction.⁸

Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee.

Until 2006, the characteristics and limitations of impact fees in Florida were found in case law rather than state statute.⁹ In 2006, in response to local governments' reliance on impact fees and the growth of impact fee collections, the Legislature adopted the Florida Impact Fee Act¹⁰, found in s. 163.31801, F.S., which requires local governing authorities to satisfy certain requirements when imposing impact fees.¹¹ Section 163.31801(3), F.S., provides requirements and procedures for the adoption of an impact fee. An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum, meet the following criteria:

- The fee must be calculated using the most recent and localized data.
- The local government adopting the impact fee must account for and report impact fee collections and expenditures. If the fee is imposed for a specific infrastructure need, the local government must account for those revenues and expenditures in a separate accounting fund.
- Charges imposed for the collection of impact fees must be limited to the actual costs.
- All local governments must give notice of a new or increased impact fee at least 90 days before the new or increased fee takes effect, but need not wait 90 days before decreasing, suspending, or eliminating an impact fee. Unless the result reduces total mitigation costs or impact fees on an applicant, new or increased impact fees may not apply to current or pending applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee.

⁶ *Contractors & Builders Ass'n of Pinellas County v. City of Dunedin*, 329 So. 2d 314, 317-318 (Fla. 1976).

⁷ *St. Johns County v. Ne. Florida Builders Ass'n, Inc.*, 583 So. 2d 635, 638 (Fla. 1991); s. 163.31801(2), F.S.

⁸ *See St. Johns County*, at 637. Codified at s. 163.31801(3)(f) and (g), F.S.

⁹ Office of Economic and Demographic Research, The Florida Legislature, *2020 Local Government Financial Information Handbook*, Dec. 2020, 13, available at <http://edr.state.fl.us/Content/local-government/reports/lghfh20.pdf> (last visited March 28, 2021).

¹⁰ Ch. 2006-218, s. 9, Laws of Fla.

¹¹ *Supra* note 9.

- A local government may not require payment of the impact fee before the date of issuing a building permit for the property that is subject to the fee.
- The impact fee must be reasonably connected to, or have a rational nexus with the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.
- The impact fee must be reasonably connected to, or have a rational nexus with, the expenditures of the revenues generated and the benefits accruing to the new residential or commercial construction.
- The local government must specifically earmark revenues generated by the impact fee to acquire, construct, or improve capital facilities to benefit new users.
- The local government may not use revenues generated by the impact fee to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with the increased impact generated by the new residential or commercial construction.

Meeting the dual rational nexus test requires the local government ordinance or resolution imposing the impact fee to earmark the funds collected for acquiring the new capital facilities necessary to benefit the new residents.

Some local governments impose impact fees specifically for local school facilities.¹² School districts have authority to impose ad valorem taxes within the district for school purposes¹³ but are not general purpose governments with home rule power¹⁴ and are not expressly authorized to impose impact fees.¹⁵ Local governments imposing specific impact fees for education capital improvements typically collect the fees for deposit directly into an account segregated for funding those improvements.¹⁶

Section 163.31801(4), F.S., provides that a local government must credit against the collection of an education-based impact fee any contribution for public education facilities on a dollar-for-dollar basis at fair market value.

Section 163.31801(5), F.S., provides that if a local government increases its impact fee rates, the holder of any impact fee credits, whether such credits are granted under concurrency, developments of regional impact, or otherwise, which were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established.

¹² See, e.g., Miami-Dade County Code of Ordinances ch. 33K, *Educational Facilities Impact Fee Ordinance* and Orange County Code of Ordinances ch. 23, art. V, *School Impact Fees*.

¹³ FLA. CONST. art. VII, s. 9(a), and art. IX, s. 4(b); See s. 1011.71, F.S.

¹⁴ See FLA. CONST. art. VIII, ss. 1(f)-(g) and 2

¹⁵ Section 163.31801(2), F.S.

¹⁶ In Miami-Dade County, the education facility impact fee is paid to the County Planning & Zoning Director, who must then deposit that amount into a specific trust fund maintained by the county. See Miami-Dade County Code of Ordinances, ss. 33K-7(a), 33K-10(c). In Orange County, the school impact fee is paid to the county or municipality (if the land being developed is within a municipality), which then transfers the funds collected at least quarterly to the Orange County School District. The District is responsible for maintaining the trust into which the impact fee revenues must be deposited. See Orange County Code of Ordinances, s. 23-142.

Financial Reporting

Counties, district school boards, municipalities with revenues or total expenditures and expenses exceeding \$250,000, and special districts with revenues or total expenditures and expenses exceeding \$100,000 must have an annual financial audit prepared either by the Auditor General or an independent certified public accountant.¹⁷ Municipalities with revenues or total expenditures and expenses between \$100,000 and \$250,000, and special districts with revenues or total expenditures and expenses between \$50,000 and \$100,000, must have a financial audit prepared every three fiscal years.¹⁸ Municipalities with revenues or total expenditures and expenses less than \$100,000 and special districts with revenues or total expenditures and expenses of less than \$50,000 are not required to have their financial statements audited.¹⁹ All local governmental entities are required to file an annual financial report with the Department of Financial Services no later than nine months from the end of the entity's fiscal year.²⁰

The financial audit report of a county, municipality, special district, or district school board filed with the Auditor General must include an affidavit signed by the chief financial officer²¹ of the reporting entity that the local governmental entity or district school board has complied with the requirements of the impact fee statute.²²

In addition to their annual financial reporting requirements, counties, municipalities, and special districts must report the following information on all impact fees charged:²³

- The specific purpose of the impact fee, including the specific infrastructure needs to be met, including, but not limited to, transportation, parks, water, sewer, and schools.
- The impact fee schedule policy describing the method of calculating impact fees, such as flat fees, tiered scales based on number of bedrooms, or tiered scales based on square footage.
- The amount assessed for each purpose and for each type of dwelling.
- The total amount of impact fees charged by type of dwelling.
- Each exception and waiver provided for construction or development of housing that is affordable.

III. Effect of Proposed Changes:

Definitions

The bill defines “infrastructure” as a fixed capital expenditure or fixed capital outlay, excluding the cost of repairs or maintenance, associated with the construction, reconstruction, or improvement of public facilities with a life expectancy of at least 5 years; related land

¹⁷ Section 218.39(1), F.S.

¹⁸ Section 218.39(1), F.S.

¹⁹ Section 218.39(1), F.S.

²⁰ Section 218.39(1), F.S.

²¹ The term “chief financial officer” for a local government is not defined in statute. For counties, the county commission may designate a county budget officer, typically either the county comptroller or the clerk of the circuit court. Section 129.025, F.S. The finances of a municipality are under the authority of the governing body, which may designate a municipal budget officer. Section 166.241, F.S. Special district boards are responsible for district financial management. Section 189.016(3), F.S. District school boards are responsible to manage and oversee district finances. Section 1001.42(12), F.S.

²² Section 163.31801(6), F.S.

²³ Section 163.31801(11), F.S.

acquisition, land improvement, design, engineering, and permitting costs; and other related construction costs required to bring the public facility into service. The term also includes a fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, a school bus, and the equipment necessary to outfit the vehicle or bus for its official use. For the independent special fire control districts, the term includes "new facilities" as defined in the independent special fire control district statute.²⁴ The bill also defines "public facilities" as major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks, and recreational facilities, and expressly includes emergency medical, fire, and law enforcement facilities.

Impact Fee Credits

The bill expands the current requirement, added in 2019²⁵, for local governments to credit against impact fees any contributions related to public education facilities. First, the bill subjects special districts to the requirement. Second, it expands the credit requirement to any contribution related to the improvement of public facilities or infrastructure, rather than only public education facilities under current law. Third, it provides that any contribution must be applied on a dollar-for-dollar basis at fair market value to reduce any impact fee collected for the general category or class of public facilities or infrastructure for which the contribution was made, rather than only education-based impact fees under current law. However, if a local government or special district does not charge and collect an impact fee for the general category or class of public facility contributed to, the credit may not be applied. All credits against impact fee collections must be made regardless of any provision in a local government's or special district's charter, comprehensive plan policy, ordinance, resolution, or development order or permit.

Impact Fee Increases

The bill provides limitations on impact fee increases imposed by a local government, school district, or special district. An impact fee may increase only pursuant to a plan for the imposition, collection, and use of the increased impact fees that complies with the provisions of this bill.

The bill limits impact fee increases as follows:

- An impact fee increase of not more than 25 percent of the current rate must be implemented in two equal annual increments beginning with the date on which the increased fee is adopted.
- If the increase in rate is between 25 and 50 percent of the current rate, the increase must be implemented in four equal annual installments.
- No impact fee increase may exceed 50 percent of the current impact fee rate.
- An impact fee may not be increased more than once every four years.
- An impact fee may not be increased retroactively for a previous or current fiscal or calendar year.

²⁴ Section 191.009(4), F.S. That statute defines "new facilities" as land, buildings, and capital equipment, including, but not limited to, fire and emergency vehicles, radio telemetry equipment, and other firefighting or rescue equipment.

²⁵ Chapter 2019-165, s. 5, Laws of Fla.

The bill provides an exception to the first four bulleted requirements above if a local government, school district, or special district increases an impact fee rate by first establishing the need for the increase in full compliance with the criteria set forth in current s. 163.31801(3), F.S., including adherence to the rational nexus test.

The bill provides that the above provisions relating to impact fee increases operate retroactively to January 1, 2021.

Financial Statement Audits

The bill revises financial reporting requirements to specify that the chief financial officer of a local government, school district, or special district, in his or her signed affidavit, must attest that:

- All impact fees were collected and expended by the local government, school district, or special district, or were collected and expended on its behalf, in full compliance with the spending period provision in the local ordinance or resolution; and
- Funds expended from each impact fee account were used only to acquire, construct, or improve specific infrastructure needs, as defined in s. 163.31801, F.S.

Additional Reporting Requirements

The bill adds school districts to the list of entities that must report the following information on all impact fees charged, in addition to the annual financial reporting requirements under s. 213.32, F.S.:

- The specific purpose of the impact fee, including the specific infrastructure needs to be met, including, but not limited to, transportation, parks, water, sewer, and schools.
- The impact fee schedule policy describing the method of calculating impact fees, such as flat fees, tiered scales based on number of bedrooms, or tiered scales based on square footage.
- The amount assessed for each purpose and for each type of dwelling.
- The total amount of impact fees charged by type of dwelling.
- Each exception and waiver provided for construction or development of housing that is affordable.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that except upon the approval of each house of the Legislature by a 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 counties or municipalities have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirement does not apply to laws having an insignificant impact. Based on joint

guidelines of the Legislature, the insignificant impact limit for Fiscal Year 2020-2021, is approximately \$2.2 million.²⁶

The mandate provisions may apply because the bill imposes limitations on a county and municipality's ability to increase impact fees. However, the bill provides an exception to the limitations if the county or municipality can demonstrate the proposed impact fee increase complies with certain statutory impact fee provisions, including adherence to the rational nexus test. If the impact of the limitations in the bill is determined to exceed \$2.2 million in the aggregate, final passage of the bill may require approval by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will have a negative indeterminate fiscal impact to local governments and school districts.²⁷

²⁶ Neither the State Constitution nor the Florida Statutes define "insignificant fiscal impact" for purposes of s. 18(d), Art. VII of the State Constitution. Joint Senate and House guidelines define "insignificant" as an amount not greater than the average statewide population for the applicable fiscal year times \$0.10. *Senate President Margolis and Speaker of the House Wetherell, County and Municipality Mandates Analysis* (1991), cited at Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 28, 2021). The \$2.2 million figure is based on the Florida Demographic Estimating Conference's Nov. 13, 2020, population forecast for 2021 of 21,893,919. The conference packet is available at: <http://www.edr.state.fl.us/Content/conferences/population/archives/201113demographic.pdf> (last visited March 28, 2021).

²⁷ Revenue Estimating Conference, *Analysis of Proposed Language*, March 12, 2021, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/pdf/page173-195.pdf> (last visited March 28, 2021).

B. Private Sector Impact:

Private developers may avoid large future increases in local government impact fees with the impact fee increase limitations in the bill.

C. Government Sector Impact:

Local governments seeking to increase impact fees will be limited in the amount of such increase annually. However, the bill provides an exception to the limitation where a local government may increase impact fees beyond the bill's limitations if the local government can establish the need for the increase in full compliance with certain statutory impact fee provisions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.31801, F.S.

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

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

CS by Finance and Tax on March 31, 2021:

The committee substitute:

- Adds to the definition of “infrastructure” fire department vehicles, emergency medical service vehicles, sheriff’s office vehicles, police department vehicles, school buses, and the equipment necessary to outfit such vehicles or buses for their official use.
- Revises the requirement for local governments and special districts to credit certain contributions against the collection of an impact fee, in that:
 - Contributions relating to the improvement of public facilities or infrastructure must be credited.
 - Credits must be applied on impact fees collected for the general category or class of public facilities or infrastructure for which the contribution was made.
 - Credits may not be applied if the local government or special district does not charge and collect an impact fee for the general category or class of public facility contributed to.

CS by Community Affairs on March 24, 2021:

The committee substitute:

- Removes the provision that impact fees may only be collected if the local government has planned or funded capital improvements.
- Removes the provision that local governments may not increase impact fees by more than 3 percent annually and instead institutes an alternative impact fee increase limitation scheme.
- Provides that an impact fee increase must be pursuant to a plan for the imposition, collection, and use of such fees.
- Provides an exception to the impact fee increase limitations if a proposed impact fee increase complies with certain statutory impact fee provisions, including adherence to the rational nexus test.

Modifies the affidavit provision to remove the requirement that the local government's chief financial officer annually attest that impact fees collected were in full compliance with s. 163.31801, F.S.

B. Amendments:

None.



434354

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 04/01/2021 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment

Delete lines 32 - 34

and insert:

service. The term also includes a fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, and the equipment necessary to outfit the vehicle for its official use. For independent special fire control districts, the term "infrastructure" includes new facilities as defined in s. 191.009(4).



427800

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 04/01/2021 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment to Amendment (434354)

Delete lines 7 - 8
and insert:
police department vehicle, a school bus as defined in s.
1006.25, and the equipment necessary to outfit the vehicle or
bus for its official use. For independent special fire



538136

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RS | . | |
| 04/01/2021 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment (with title amendment)

Delete lines 85 - 94

and insert:

(5) (a) (4) Notwithstanding any charter provision, comprehensive plan policy, ordinance, development order, development permit, or resolution, the local government or special district must credit against the collection of the impact fee any contribution, whether identified in a proportionate share agreement or other form of exaction, which



538136

11 relates to the improvement of ~~related to~~ public education
12 facilities or infrastructure, including land dedication, site
13 planning and design, or construction. Any contribution must be
14 applied on a dollar-for-dollar basis at fair market value to
15 reduce any ~~education-based~~ impact fee collected toward impacts
16 on the same type of public facilities for which a contribution
17 was made ~~fees on a dollar-for-dollar basis at fair market value.~~

18 (b) If a local government or special district does not
19 charge and collect an impact fee for the type of public facility
20 contributed, a credit may not be applied under paragraph (a).

21
22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Between lines 6 and 7

25 insert:

26 providing conditions under which credits may not be
27 applied;



380906

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 04/01/2021 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Substitute for Amendment (538136) (with title amendment)

Delete lines 85 - 94
and insert:

(5) (a) (4) Notwithstanding any charter provision, comprehensive plan policy, ordinance, development order, development permit, or resolution, the local government or special district must credit against the collection of the impact fee any contribution, whether identified in a



380906

11 proportionate share agreement or other form of exaction, which
12 relates to the improvement of ~~related to~~ public education
13 facilities or infrastructure, including land dedication, site
14 planning and design, or construction. Any contribution must be
15 applied on a dollar-for-dollar basis at fair market value to
16 reduce any ~~education-based~~ impact fee collected for the general
17 category or class of public facilities or infrastructure for
18 which the contribution was made ~~fees on a dollar-for-dollar~~
19 ~~basis at fair market value.~~

20 (b) If a local government or special district does not
21 charge and collect an impact fee for the general category or
22 class of public facility contributed, a credit may not be
23 applied under paragraph (a).

24
25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:

27 Delete line 6

28 and insert:

29 fees any contribution that relates to the improvement
30 of public facilities or infrastructure; providing
31 conditions under which credits may not be applied;

By the Committee on Community Affairs; and Senator Gruters

578-03315-21

2021750c1

1 A bill to be entitled
 2 An act relating to impact fees; amending s. 163.31801,
 3 F.S.; defining the terms "infrastructure" and "public
 4 facilities"; requiring local governments and special
 5 districts to credit against the collection of impact
 6 fees any contribution related to public facilities;
 7 providing limitations on impact fee increases;
 8 providing for retroactive operation; requiring
 9 specified entities to submit an affidavit attesting
 10 that impact fees were appropriately collected and
 11 expended; requiring school districts to report
 12 specified information regarding impact fees; providing
 13 an effective date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Present subsections (3) through (11) of section
 18 163.31801, Florida Statutes, are redesignated as subsections (4)
 19 through (12), respectively, a new subsection (3) is added to
 20 that section, and present subsections (3) through (6) and (11)
 21 of that section are amended, to read:
 22 163.31801 Impact fees; short title; intent; minimum
 23 requirements; audits; challenges.-
 24 (3) For purposes of this section, the term:
 25 (a) "Infrastructure" means a fixed capital expenditure or
 26 fixed capital outlay, excluding the cost of repairs or
 27 maintenance, associated with the construction, reconstruction,
 28 or improvement of public facilities that have a life expectancy
 29 of at least 5 years; related land acquisition, land improvement,

Page 1 of 6

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

578-03315-21

2021750c1

30 design, engineering, and permitting costs; and other related
 31 construction costs required to bring the public facility into
 32 service. For independent special fire control and rescue
 33 districts, the term "infrastructure" includes new facilities as
 34 defined in s. 191.009(4).
 35 (b) "Public facilities" has the same meaning as in s.
 36 163.3164 and includes emergency medical, fire, and law
 37 enforcement facilities.
 38 (4)(3) At a minimum, each local government that adopts and
 39 collects an impact fee by ordinance and each special district
 40 that adopts, collects, and administers an impact fee by
 41 resolution must an impact fee adopted by ordinance of a county
 42 or municipality or by resolution of a special district must
 43 satisfy all of the following conditions:
 44 (a) Ensure that the calculation of the impact fee is must
 45 be based on the most recent and localized data.
 46 (b) ~~The local government must~~ Provide for accounting and
 47 reporting of impact fee collections and expenditures and, if a
 48 local governmental entity imposes an impact fee to address its
 49 infrastructure needs, the entity must account for the revenues
 50 and expenditures of such impact fee in a separate accounting
 51 fund.
 52 (c) Limit administrative charges for the collection of
 53 impact fees ~~must be limited~~ to actual costs.
 54 (d) ~~The local government must~~ Provide notice at least not
 55 less than 90 days before the effective date of an ordinance or
 56 resolution imposing a new or increased impact fee. A local
 57 government county or municipality is not required to wait 90
 58 days to decrease, suspend, or eliminate an impact fee. Unless

Page 2 of 6

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578-03315-21

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59 the result is to reduce the total mitigation costs or impact
60 fees imposed on an applicant, new or increased impact fees may
61 not apply to current or pending permit applications submitted
62 before the effective date of ~~an ordinance or resolution imposing~~
63 a new or increased impact fee.

64 (e) Ensure that collection of the impact fee may not be
65 required to occur earlier than the date of issuance of the
66 building permit for the property that is subject to the fee.

67 (f) Ensure that the impact fee ~~is must be~~ proportional and
68 reasonably connected to, or has ~~have~~ a rational nexus with, the
69 need for additional capital facilities and the increased impact
70 generated by the new residential or commercial construction.

71 (g) Ensure that the impact fee ~~is must be~~ proportional and
72 reasonably connected to, or has ~~have~~ a rational nexus with, the
73 expenditures of the funds collected and the benefits accruing to
74 the new residential or nonresidential construction.

75 (h) ~~The local government must~~ Specifically earmark funds
76 collected under the impact fee for use in acquiring,
77 constructing, or improving capital facilities to benefit new
78 users.

79 (i) Ensure that revenues generated by the impact fee are
80 ~~may not be~~ used, in whole or in part, to pay existing debt or
81 for previously approved projects unless the expenditure is
82 reasonably connected to, or has a rational nexus with, the
83 increased impact generated by the new residential or
84 nonresidential construction.

85 ~~(5)(4)~~ Notwithstanding any charter provision, comprehensive
86 plan policy, ordinance, development order, development permit,
87 or resolution, the local government or special district must

578-03315-21

2021750c1

88 credit against the collection of the impact fee any
89 contribution, whether identified in a proportionate share
90 agreement or other form of exaction, related to public ~~education~~
91 facilities, including land dedication, site planning and design,
92 or construction. Any contribution must be applied to reduce any
93 ~~education-based~~ impact fees on a dollar-for-dollar basis at fair
94 market value.

95 ~~(6)(5)~~ A local government, school district, or special
96 district may increase an impact fee only as provided in this
97 subsection.

98 (a) An impact fee may be increased only pursuant to a plan
99 for the imposition, collection, and use of the increased impact
100 fees which complies with this section.

101 (b) An increase to a current impact fee rate of not more
102 than 25 percent of the current rate must be implemented in two
103 equal annual increments beginning with the date on which the
104 increased fee is adopted.

105 (c) An increase to a current impact fee rate which exceeds
106 25 percent but is not more than 50 percent of the current rate
107 must be implemented in four equal installments beginning with
108 the date the increased fee is adopted.

109 (d) An impact fee increase may not exceed 50 percent of the
110 current impact fee rate.

111 (e) An impact fee may not be increased more than once every
112 4 years.

113 (f) An impact fee may not be increased retroactively for a
114 previous or current fiscal or calendar year.

115 (g) Notwithstanding paragraphs (b), (c), (d), or (e), a
116 local government, school district, or special district may

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2021750c1

117 increase an impact fee rate by establishing the need for such
 118 increase in full compliance with the requirements of subsection
 119 (4).

120 (h) If a local government an impact fee is increased
 121 increases its impact fee rates, the holder of any impact fee
 122 credits, whether such credits are granted under s. 163.3180, s.
 123 380.06, or otherwise, which were in existence before the
 124 increase, is entitled to the full benefit of the intensity or
 125 density prepaid by the credit balance as of the date it was
 126 first established.

127 (i) This subsection shall operate retroactively to January
 128 1, 2021 prospectively and not retrospectively.

129 (7)(6) A local government, school district, or special
 130 district must submit with its annual financial report under s.
 131 218.32 or its financial audit report under s. 218.39 an
 132 affidavit signed by its chief financial officer attesting that
 133 all impact fees were collected and expended by the local
 134 government, school district, or special district, or were
 135 collected and expended on its behalf, in full compliance with
 136 the spending period provision in the local ordinance or
 137 resolution, and that funds expended from each impact fee account
 138 were used only to acquire, construct, or improve specific
 139 infrastructure needs as defined in this section Audits of
 140 financial statements of local governmental entities and district
 141 school boards which are performed by a certified public
 142 accountant pursuant to s. 218.39 and submitted to the Auditor
 143 General must include an affidavit signed by the chief financial
 144 officer of the local governmental entity or district school
 145 board stating that the local governmental entity or district

Page 5 of 6

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146 ~~school board has complied with this section.~~

147 (12)(11) In addition to the items that must be reported in
 148 the annual financial reports under s. 218.32, a local
 149 government, school district county, municipality, or special
 150 district must report all of the following information data on
 151 all impact fees charged:

152 (a) The specific purpose of the impact fee, including the
 153 specific infrastructure needs to be met, including, but not
 154 limited to, transportation, parks, water, sewer, and schools.

155 (b) The impact fee schedule policy describing the method of
 156 calculating impact fees, such as flat fees, tiered scales based
 157 on number of bedrooms, or tiered scales based on square footage.

158 (c) The amount assessed for each purpose and for each type
 159 of dwelling.

160 (d) The total amount of impact fees charged by type of
 161 dwelling.

162 (e) Each exception and waiver provided for construction or
 163 development of housing that is affordable.

164 Section 2. This act shall take effect upon becoming a law.

Page 6 of 6

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



The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: March 26, 2021

I respectfully request that **Senate Bill #750**, relating to Impact Fees, be placed on the:

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

A handwritten signature in black ink that reads "Joe Gruters".

Senator Joe Gruters
Florida Senate, District 23

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/31/21

Meeting Date

750

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Jane West, Esq.

Job Title Policy + Planning Director

Address 24 Cathedral

Phone 904-671-4008

Street

St Augustine FL 32084

City

State

Zip

Email jwest@1000fof.org

Speaking: For Against Information

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

Representing 1000 Friends of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

**THE FLORIDA SENATE
APPEARANCE RECORD**

3/31/21
Meeting Date

750
Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Bob McKee

Job Title Deputy Director of Public Policy

Address 100 S Monroe
Street

Phone (850) 766-1952

Tallahassee FL 32301
City State Zip

Email bmckee@flcounties.com

Speaking: For Against Information

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

Representing Florida Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

3/31/2021

Meeting Date

750

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name David Cruz

Job Title Legislative Counsel

Address PO Box 1757

Phone 850-701-3676

Street

Tallahassee

FL

32301

Email dcruz@flcities.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida League of Cities, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/31/21

Meeting Date

750

Bill Number (if applicable)

Topic Impact Fees

Amendment Barcode (if applicable)

Name Marco Paredes

Job Title _____

Address 106 E College Ave, Ste 700

Phone 850-354-7608

Street

Tallahassee, FL 32311

Email mparedes@stearnsweaver.com

City

State

Zip

Speaking: For Against Information

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

Representing Encore Capital Management

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3-31-21

Meeting Date

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

SB 750

Bill Number (if applicable)

Topic IMPACT FEES

Amendment Barcode (if applicable)

Name KARI HEBRANK

Job Title _____

Address 215 S. Monroe

Phone 566-7824

TAHA HABIB FL 32301
City State Zip

Email Khebrank@CarltonFields.com

Speaking: For Against Information

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

Representing NUCA of FLORIDA, FL HOME BUILDERS 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.

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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)

3-31-21
Meeting Date

SB 750
Bill Number (if applicable)

Topic IMPACT FEES

Amendment Barcode (if applicable)

Name DANE BENNETT

Job Title DIRECTOR OF GOVERNMENT AFFAIRS

Address 2600 CENTENNIAL PLACE
Street

Phone 941-468-8479

TALLAHASSEE FL 32308
City State Zip

Email DBENNETT@FHBA.COM

Speaking: For Against Information

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

Representing FLORIDA HOME BUILDERS ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

3/31/21

Meeting Date

750

Bill Number (if applicable)

434354

Amendment Barcode (if applicable)

Topic Impact Fees

Name Bob McKee

Job Title Deputy Director of Public Policy

Address 100 S Monroe

Phone (850) 766-1952

Street

Tallahassee

FL

32301

Email bmckee@flcounties.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/31/21

Meeting Date

750

Bill Number (if applicable)

427800 (AA)

Amendment Barcode (if applicable)

Topic Impact Fees

Name Billie Anne Gay

Job Title Director of Advocacy & Leg. Affairs

Address 203 S Monroe St

Street

Phone 850 414 2578

Tallahassee

City

FL

State

32301

Zip

Email Gay@fsba.org

Speaking: For Against Information

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

Representing Florida School Boards 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

3/31/21

Meeting Date

750

Bill Number (if applicable)

538136

Amendment Barcode (if applicable)

Topic Impact Fees

Name Bob McKee

Job Title Deputy Director of Public Policy

Address 100 S Monroe

Street

Tallahassee

City

FL

State

32301

Zip

Phone (850) 766-1952

Email bmckee@flcounties.com

Speaking: For Against Information

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

Representing Florida Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3-31-21

Meeting Date

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

SB 750

Bill Number (if applicable)

380906

Amendment Barcode (if applicable)

Topic IMPACT Fees

Name Nari HEBRANK

Job Title _____

Address 245 S. Monroe St.

Street

Phone 566-7824

Tallahassee FL 32309

City

State

Zip

Email Khebrank@Carlton

Fields.com

Speaking: For Against Information

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

Representing FLORIDA HOME BUILDERS

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

3/31/21

Meeting Date

750

Bill Number (if applicable)

380906

Amendment Barcode (if applicable)

Topic Impact Fees

Name Bob McKee

Job Title Deputy Director of Public Policy

Address 100 S Monroe

Street

Tallahassee

City

FL

State

32301

Zip

Phone (850) 766-1952

Email bmckee@flcounties.com

Speaking: For Against Information

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

Representing Florida Association of Counties

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/CS/SB 908

INTRODUCER: Finance and Tax Committee; Children, Families, and Elder Affairs; and Senator Rodrigues

SUBJECT: Strong Families Tax Credit

DATE: March 31, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|----------------|-----------|---------------|
| 1. | <u>Moody</u> | <u>Cox</u> | <u>CF</u> | <u>Fav/CS</u> |
| 2. | <u>Kim</u> | <u>Babin</u> | <u>FT</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 908 creates the Strong Families Tax Credit. The tax credit is available to businesses that make monetary donations to certain eligible charitable organizations that provide services focused on child welfare and well-being, specifically:

- Preventing child abuse, neglect, abandonment, or exploitation;
- Assisting fathers in learning and improving parenting skills or to engage absent fathers in being more engaged in their children's lives;
- Providing books to the homes of children eligible for a free or reduced-price meal program or those testing below grade level in kindergarten through fifth grade;
- Assisting families who have children with a chronic illness or a physical, intellectual, developmental, or emotional disability; or
- Providing workforce development services to families of children eligible for a free or reduced-price meal program.

The tax credits are a dollar-for-dollar credit against severance taxes on oil and gas production; the self-accrued sales tax liability of direct pay permit holders; corporate income taxes; alcoholic beverage taxes; or the insurance premium tax. The total credits allowed are capped at \$5 million each state fiscal year, beginning in Fiscal Year 2021-2022.

The bill specifies requirements and procedures for, and limitations on, receiving the tax credits.

The bill also directs the Florida Institute for Child Welfare, an entity that performs research on child welfare initiatives contributing to a more effective child welfare system, to perform an

analysis of the tax credit and the use of the funds and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 31, 2025.

The bill appropriates \$208,000 in non-recurring general revenue funds to the Department of Revenue to implement the bill.

The Revenue Estimating Conference has not yet reviewed the bill. Staff estimates that the bill has a significant but indeterminate negative impact to state revenues; however, the impact to state revenues is a maximum reduction of \$5 million per fiscal year, beginning in Fiscal Year 2021-2022.

The bill has an effective date of July 1, 2021.

II. Present Situation:

Department of Children and Families

The Department of Children and Families' (DCF) mission is to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.¹ The DCF must develop a strategic plan to fulfill its mission and establish measureable goals, objectives, performance standards, and quality assurance requirements to ensure DCF is accountable to taxpayers.²

Under s. 20.19(4), F.S., the DCF is required to provide services relating to:

- Adult protection.
- Child care regulation.
- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.

The DCF must develop a strategic plan for fulfilling its mission and establish a set of measurable goals, objectives, performance standards, and quality assurance requirements to ensure it is accountable. The DCF must also deliver services by contract through private providers to the extent allowed by law and funding.³ These private providers include managing entities delivering behavioral health services and community-based care lead agencies to deliver child welfare services.

¹ Section 20.19(1), F.S.

² *Id.*

³ *Id.*

Florida's Child Welfare System

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the Florida central abuse hotline (hotline).⁴ A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse,⁵ abandonment,⁶ or neglect.⁷ A child protective investigator investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.⁸

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home.⁹ However, the DCF's practice model is based on the safety of the child within his or her home, using in-home services such as parenting coaching and counseling to maintain and strengthen that child's natural supports in his or her environment. The DCF contracts for case management, out-of-home services, and related services with community-based care lead agencies (CBCs).¹⁰

The DCF outsources foster care and related services to service agencies with an increased *local community ownership* of providing services.¹¹ CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.¹²

⁴ Section 39.201(1)(a), F.S.

⁵ Section 39.01(2), F.S. The term "abuse" means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

⁶ Section 39.01(1), F.S. The term "abandoned" or "abandonment" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.

⁷ Sections 39.01(50) and 39.201(2)(a), F.S. "Neglect" occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

⁸ Section 39.201(5), F.S.

⁹ Section 39.401, F.S.

¹⁰ Section 409.987, F.S.

¹¹ The Florida Department of Children and Families (DCF), *Community-Based Care*, available at <https://www.myflfamilies.com/service-programs/community-based-care/overview.shtml> (last visited March 28, 2021).

¹² The DCF, *Community-Based Care Lead Agency Map*, available at <https://www.myflfamilies.com/service-programs/community-based-care/lead-agency-map.shtml> (last visited March 28, 2021).

The DCF remains responsible for a number of child welfare functions, including operating the hotline, performing child protective investigations, and providing children's legal services. Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.¹³

Florida Institute for Child Welfare

In 2014, the Legislature established the Florida Institute for Child Welfare (FICW) at the Florida State University College of Social Work.¹⁴ The Legislature created the FICW to provide research and evaluation that contributes to a more sustainable, accountable, and effective child welfare system. The purpose of the FICW is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research, policy analysis, evaluation, and leadership development.¹⁵ Current law requires the FICW to establish an affiliate network of public and private universities with accredited degrees in social work. In 2017, the FICW expanded its affiliate network to include research affiliates, and there are now over 50 research faculty affiliates.¹⁶

Select State Revenue Sources

The following describes select taxes imposed by Florida, which the bill provides credits against.

Severance Taxes on Oil and Gas Production

Oil and gas production severance taxes are imposed on persons who sever oil or gas in Florida for sale, transport, storage, profit, or commercial use.¹⁷ The rates are based on the value of the oil produced and saved or sold and the volume of gas produced and sold or used.¹⁸ These taxes are collected by the Department of Revenue (DOR) and distributed to the Oil and Gas Tax Trust Fund where, after paying refunds for overpayments, proceeds are distributed according to a statutory formula.¹⁹ The majority of proceeds are distributed to the General Revenue Fund, with a minority to the general revenue fund of the board of county commissioners of the county where produced and the Minerals Trust Fund. Receipts from the severance taxes on oil and gas in Fiscal Year 2019-2020 were \$1.8 million.²⁰

¹³ Office of Program Policy Analysis & Government Accountability, *Child Welfare System Performance Mixed in First Year of Statewide Community-Based Care, Report 06-50*, p. 2, June 2006, available at <https://oppaga.fl.gov/Documents/Reports/06-50.pdf> (last visited March 28, 2021).

¹⁴ Chapter 2014-224, Laws of Fla.

¹⁵ Section 1004.615, F.S.

¹⁶ See the Florida Institute for Child Welfare, available at <https://ficw.fsu.edu/> (last visited March 28, 2021).

¹⁷ Sections 211.02(1) and 211.025, F.S.

¹⁸ *Id.*

¹⁹ Section 211.06, F.S.

²⁰ Revenue Estimating Conference, *General Revenue Consensus Estimating Conference Comparison Report* (December 21, 2020), 38, available at <http://www.edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited March 28, 2021).

Sales Taxes Paid by Direct Pay Permit Holders

Florida levies a 6 percent sales and use tax (sales tax) on the sale or rental of most tangible personal property, admissions,²¹ transient rentals,²² and a limited number of services, and a 5.5 percent sales and use tax on commercial real estate rentals.²³ Chapter 212, F.S., authorizes the levy and collection of Florida's sales tax, and provides exemptions and credits applicable to certain items or uses under specified circumstances, including a sale for resale.²⁴ Florida requires a dealer to add the tax to the sales price of the taxable good or service and collect it from the purchaser at the time of sale.²⁵ Total sales tax collections in Fiscal Year 2019-2020 were estimated at \$29.3 billion.²⁶

States typically grant direct pay permits to large businesses with large numbers of transactions.²⁷ Direct pay permits allow all purchases by the holder to be tax exempt, but require the holder to file sales tax returns and pay tax on those purchases that were not for resale.²⁸

Section 212.183, F.S., authorizes the DOR to establish a process for the self-accrual of sales taxes and the issuance of a direct pay permit to a taxpayer, who then pays the taxes directly to the DOR.²⁹ The implementing DOR rule authorizes issuing direct pay permits for the following purposes:³⁰

- The apportionment of sales tax by eligible air carriers.
- Certain partial exemptions for railroad rolling stock and parts used to transport persons or property for hire in interstate or foreign commerce and for fuel used in railroad locomotives.
- A certain partial exemption for motor vehicles and parts used to transport persons or property for hire in interstate or foreign commerce.
- Certain partial exemptions for vessels and parts used to transport persons or property for hire in interstate or foreign commerce or for commercial fishing purposes and for fuel used in such vessels.
- The purchase of tangible personal property by dealers who annually purchase in excess of \$10 million of taxable tangible personal property in any county for the dealer's own use.
- The purchase of tangible personal property by dealers who annually purchase at least \$100,000 of taxable tangible personal property, including maintenance and repairs for the dealer's own use, and the taxable status of the property will be known only when the dealer uses the property.
- The purchase of certain promotional materials by dealers who are unable to determine at the time of purchase whether the promotional materials used to promote subscriptions to publications will be used in Florida or exported from Florida.

²¹ Section 212.04, F.S.

²² Section 212.03, F.S.

²³ Section 212.031, F.S.

²⁴ Section 212.02(14)(a), F.S.

²⁵ See ss. 212.07(2) and 212.06(3)(a), F.S.

²⁶ Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook, Including Fiscal Impact of Potential Changes*, 159 (2020), available at <http://www.edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Mar. 28, 2021).

²⁷ Charles W. Swenson, et al. *State and Local Taxation*, Third Edition., 130, J. Ross Publishing (2020).

²⁸ *Id.*

²⁹ Section 212.183, F.S.

³⁰ Fla. Admin. Code R. 12A-1.0911(2) (2016).

- The lease or license to use real property subject to commercial rent tax from independent owners or lessors of real property by dealers who are required to remit sales tax electronically.
- The lease of or license to use real property subject to commercial rent tax by a dealer who leases or obtains licenses to use real property from a number of independent property owners who, except for the lease or license to the dealer, would not be required to register as dealers engaged in the business of leasing real property.
- The lease or license to use real property subject to commercial rent tax by operators of amusement machines or vending machines who lease or obtain licenses to use real property from property owners or lessors for the purpose of placing and operating an amusement or vending machine.

Corporate Income Tax and Alternative Minimum Tax

Florida imposes a tax on the taxable income of certain corporations and financial institutions doing business in Florida.³¹ The current rate is 4.458 percent³² of a taxpayer's net income for its taxable year (the calendar or fiscal year or period upon which its net income is computed).³³

The calculation of Florida corporate income tax starts with a corporation's federal taxable income.³⁴ Taxable income earned by corporations operating in more than one state is taxed in Florida on an apportioned basis using a formula based 25 percent on property, 25 percent on payroll, and 50 percent on sales.³⁵ Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first \$50,000 of net income is exempt, effective with taxable years beginning January 1, 2013.³⁶

Corporate income tax net collections in Fiscal Year 2019-2020 were \$1.7 billion.³⁷

Generally, an alternative minimum tax (AMT) applies to taxpayers with high economic income by setting a limit on certain tax benefits that significantly reduce the taxpayer's regular tax amount.³⁸ However, the federal corporate AMT for C corporations was repealed by the federal Tax Cuts and Jobs Act of 2017.³⁹ To calculate AMT, a taxpayer's liability is calculated twice, once under the rules for regular income tax and once under AMT rules, and the taxpayer is required to pay the higher amount.⁴⁰ Florida AMT must be computed if federal AMT was paid

³¹ Chapter 220, F.S.

³² The tax rate was adjusted downward to 4.458 percent pursuant to s. 220.1105, F.S., for taxable years beginning on or after January 1, 2019. Pursuant to s. 220.1105(5), F.S., the rate is scheduled to return to 5.5 percent for taxable years beginning on or after January 1, 2022.

³³ Sections 220.11(2) and 220.63(2), F.S.

³⁴ Section 220.12, F.S.

³⁵ Section 220.15, F.S.

³⁶ Section 220.14, F.S.

³⁷ *Supra* note 20, at 27.

³⁸ Internal Revenue Service, *Topic No. 556 Alternative Minimum Tax*, available at <https://www.irs.gov/taxtopics/tc556> (last visited March 28, 2021).

³⁹ Pub. L. No. 115-97, s. 12001, 131 Stat. 2054 (2017).

⁴⁰ Congressional Research Service, *Tax Reform: The Alternative Minimum Tax* (Dec. 4, 2017), available at <https://crsreports.congress.gov/product/pdf/IF/IF10705> (last visited March 28, 2021).

for the same tax year.⁴¹ Florida alternative minimum taxable income is multiplied by 3.3 percent to determine Florida AMT.⁴² The tax due is the higher of the regular Florida corporate income tax or the Florida AMT.⁴³ A taxpayer required to pay the AMT rather than the regular corporate income tax may take a credit in subsequent taxable years, in an amount equal to AMT paid minus the amount of the regular corporate income tax that would have been due without the application of the AMT.⁴⁴

Alcoholic Beverage Taxes

Florida imposes excise taxes on alcoholic beverages, at a rate of \$0.48 per gallon of beer⁴⁵, \$2.25 to \$3.50 per gallon of wine and \$0.89 per gallon of cider⁴⁶, and \$2.25 to \$9.53 per gallon of spirits⁴⁷, with wine and spirits rates varying with the alcoholic content and type of wine. The taxes are due from manufacturers, distributors and vendors of beer, and from manufacturers and distributors of wine, liquor, and other specified alcoholic beverages. Taxes are remitted to the Division of Alcoholic Beverages and Tobacco (Division) of the Department of Business and Professional Regulation (DBPR).⁴⁸

Of the monthly collections of the excise taxes on alcoholic beverages, 2 percent are deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the Division's appropriation for the state fiscal year, with the remainder credited to the General Revenue Fund.⁴⁹ Beverage wholesale tax collections for Fiscal Year 2019-2020 were \$744.2 million.⁵⁰

Insurance Premium Tax

Florida imposes on insurers a tax on insurance premiums. For the tax imposed by s. 624.509(1), F.S., tax is due on:

- Insurance premiums;
- Premiums for title insurance;
- Assessments, including membership fees and policy fees and gross deposits received from subscribers to reciprocal or interinsurance agreements; and
- Annuity premiums or considerations.

The general tax rate is 1.75 percent of gross receipts on account of life and health insurance policies covering Florida residents and on account of all other types of policies and contracts covering property, subjects, or risks located, resident, or to be performed in Florida, minus reinsurance and return premiums.⁵¹ Annuity policies or contracts held in Florida are taxed at

⁴¹ Section 220.13(2)(k), F.S.; Florida Department of Revenue, *Corporate Income Tax*, 2, available at https://floridarevenue.com/Forms_library/current/gt800017.pdf (last visited March 28, 2021).

⁴² Section 220.11(3), F.S..

⁴³ *Id.*

⁴⁴ Section 220.186, F.S.

⁴⁵ Section 563.05, F.S.

⁴⁶ Section 564.06, F.S.

⁴⁷ Section 565.12, F.S.

⁴⁸ Section 561.02, F.S. The Division is responsible for supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in Florida.

⁴⁹ Section 561.121, F.S.

⁵⁰ *Supra* note 20, at 31.

⁵¹ Section 624.509(1), F.S.

1 percent of gross receipts, and direct written premiums for bail bonds are taxed at 1.75 percent, excluding any amounts retained by licensed bail bond agents or appointed managing general agents.⁵² The insurance premium tax is collected by the Department of Revenue and distributed to the General Revenue Fund.⁵³ Total insurance premium tax collections in Fiscal Year 2019-2020 were \$893.7 million.⁵⁴

Currently, there are no statutory provisions for a tax credit program for eligible contributions made to eligible organizations that work to promote the welfare of children.

Background Screening

Background Screening Process

Level 1 and Level 2 Criminal History Record Checks are terms used under Florida law to convey the method of the criminal history record check and the extent of the data searched. Level 1 and Level 2 are terms that pertain only to Florida and are not used by the Federal Bureau of Investigation (FBI) or other states:

- Level 1: a state-only name-based check.
- Level 2: a state and national fingerprint-based check and consideration of disqualifying offenses, applicable to employees and volunteers designated by law as holding positions of responsibility or trust and those required to be fingerprinted pursuant to ch. 435, F.S.⁵⁵

Public Law (Pub. L.) 92-544 authorizes the Federal Bureau of Investigation (FBI) to exchange criminal history record information (CHRI) with state and local governmental agencies' officials for licensing and employment purposes. Criteria established under Pub. L. 92-544 requires state statutes to designate an authorized governmental agency to be responsible for receiving and screening the results of the CHRI to then determine an applicant's suitability for employment or licensing. For level 2 screening, the Florida Department of Law Enforcement (FDLE) is this state's authorized governmental agency given the responsibility to perform a criminal history record check of its records and request that the FBI perform a national criminal history record check of its records for each employee for whom the request is made.⁵⁶

Under current law, designated eligible charitable organizations are not considered authorized governmental agencies to conduct background screenings and, therefore, are unable to request or obtain national records pursuant to s. 435.04, F.S. However, the FDLE's Volunteer and Employee Criminal History System (VECHS) allows certain non-governmental organizations to obtain national criminal history results through the FDLE.

Once the FDLE receives fingerprints and payment for criminal history record requests, with the assistance of the FBI, the FDLE will provide the organization:⁵⁷

⁵² *Id.*

⁵³ Section 624.509(3), F.S.

⁵⁴ *Supra* note 20, at 34.

⁵⁵ Section 435.05, F.S.

⁵⁶ Section 435.05(1)(c), F.S.

⁵⁷ The FDLE, *VECHS Program-Process and Forms*, <https://www.fdle.state.fl.us/Background-Checks/VECHS-Process-and-Forms> (last visited March 28, 2021) (hereinafter cited as "VECHS Program")

- Either an indication that the person has no criminal history or the criminal history record that shows arrests and convictions for Florida and other states, if any; and
- Notification of any warrants or domestic violence injunctions that the person may have.

Disqualifying Offenses

Regardless of whether the screening is level 1 or level 2, the screening employer or agency must make sure that the applicant has good moral character by ensuring that the employee has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of the 52 offenses enumerated in s. 435.04(2), F.S., or similar law of another jurisdiction.⁵⁸

III. Effect of Proposed Changes:

Strong Families Tax Credit

Tax Credits for Contributions to Eligible Charitable Organizations

The bill creates s. 402.62, F.S., the Strong Families Tax Credit. The tax credit is available for businesses that make monetary donations to certain eligible charitable organizations that provide services focused on child welfare and well-being. The tax credit is a dollar-for-dollar credit against the business's liability for the state taxes described in Section II, including:

- Severance taxes on oil and gas production;
- The self-accrued sales tax liability of direct pay permit holders;
- The corporate income tax;
- Alcoholic beverage taxes; or
- The insurance premium tax.

New sections are created in each of the applicable tax chapters to create the credit authorized in s. 402.62, F.S., as discussed further below.

The annual tax credit cap for all credits under this program is \$5 million per state fiscal year, beginning in Fiscal Year 2021-2022.

Certification and Responsibilities of Eligible Charitable Organizations

To qualify for the program, an eligible charitable organization must be exempt as a s. 501(c)(3) organization under the Internal Revenue Code, must be a Florida entity with its principal office in Florida, and must provide services to:

- Prevent child abuse, neglect, abandonment, or exploitation;
- Assist fathers in learning and improving parenting skills or to engage absent fathers in being more engaged in their children's lives;
- Provide books to the homes of children eligible for a free or reduced-price meal program or those testing below grade level in kindergarten through fifth grade;
- Assist families who have children with a chronic illness or a physical, intellectual, developmental, or emotional disability; or

⁵⁸ See s. 435.04(2), F.S., for a full list.

- Provide workforce development services to families of children eligible for a free or reduced-price meal program.

An eligible charitable organization cannot:

- Provide, pay for, or provide coverage for abortions or financially support any other entity that provides, pays for or provides coverage for abortions, or
- Receive more than 50 percent of its total annual revenue from the DCF, either directly or indirectly in the prior fiscal year.

Additionally, to participate in the program, the organization must:

- Apply to the DCF for designation as an eligible charitable organization;
- Provide one-time and ongoing information as requested by the DCF;
- Spend 100 percent of received funds on direct services for Florida residents for an approved purpose under the Strong Families Tax Credit;
- Apply for admittance into the FDLE's VECHS program and, if accepted, conduct level 2 background screening and perform a check of the Dru Sjodin National Sex Offender Public Website for all volunteers and staff working directly with children in any program funded under the bill;
- Annually provide a copy of its most recent IRS Return of Organization Exempt from Income Tax form (Form 990); and
- Annually submit to the DCF, within 180 days after the completion of its fiscal year, an audit by an independent certified public accountant, including a report on financial statements, in accordance with generally accepted accounting principles, government standards and rules adopted by the Auditor General;
- Notify the DCF within 5 days if the charitable organization ceases to meet eligibility requirements or fails to comply with requirements under the section; and
- Provide the taxpayer that made the contribution with a certificate of contribution upon receipt of the contribution.⁵⁹

Responsibilities of the Department of Children and Families

The DCF must annually redesignate eligible charitable organizations and remove organizations that fail to meet the specified criteria. A charitable organization that has its designation removed is able to apply for redesignation. The DCF must redesignate the organization if it meets the criteria and the application demonstrates that the factors leading to its removal have been sufficiently addressed. The DCF is also responsible for creating and maintaining a section of its website dedicated to this tax credit program and providing information on the process for becoming an eligible charitable organization, a list of current eligible charitable organizations, and the process for a taxpayer to select an eligible charitable organization as the recipient of funding through the tax credit program. Finally, the DCF must compel the return of funds received by a charitable organization that fails to comply with the requirements of s. 402.62, F.S. If an organization is subject to such return of funds, it is ineligible to receive funding under the section for a period of 10 years after final agency action to compel the return.

⁵⁹ A certificate of contribution must include the taxpayer's name, the federal employer identification number, amount contributed, date of contribution, and the name of the eligible charitable organization.

Application and Approval of Tax Credits by the DOR

Businesses that wish to participate in the program by making a donation to an eligible charitable organization must apply to the DOR beginning October 1, 2021, for an allocation of tax credit. The taxpayer must specify in the application each tax for which the taxpayer requests a credit, the applicable taxable year for a credit under s. 220.1876, F.S., or s. 624.51056, F.S., relating to the corporate income and insurance premium tax credits, and the applicable state fiscal year for a credit under ss. 211.0252, F.S., 212.1833, F.S., or 561.1212, F.S., relating to oil and gas production, direct pay permit sales, and alcoholic beverage tax credits, respectively. For purposes of s. 220.1876, F.S., a taxpayer may apply for a credit to be used for a prior taxable year before the date the taxpayer is required to file a return for that year pursuant to s. 220.222, F.S. For purposes of s. 624.51056, F.S., a taxpayer may apply for a credit to be used for a prior taxable year before the date the taxpayer is required to file a return for that year pursuant to s. 624.509, F.S., or s. 624.5092, F.S. The DOR is required to approve the tax credits on a first-come, first-served basis and must obtain the approval of the Division prior to approving an alcoholic beverage tax credit under s. 561.1212, F.S.

The DOR must provide a copy of a letter approving or denying an application within 10 days after a decision is made.

Any unused credit may be carried forward up to ten years. The bill generally does not allow a taxpayer to convey, transfer, or assign the credit to another entity unless all of the assets of the taxpayer are conveyed, transferred, or assigned in the same transaction. Upon approval of the DOR, transfers may be made between members of an affiliated group of corporations if the credit transferred will be taken against the same type of tax and the taxpayer notifies the DOR of its intent to convey, transfer, or assign the credit to another member.

For purposes of calculating underpayment of estimated corporate income taxes and insurance premium tax installments, the final amount due is the amount after credits earned for contributions to eligible charitable organizations are deducted. Provisions are made for determining whether penalties or interest will be imposed.

The bill provides for the preservation of credits if any provision of the tax credit program is held unconstitutional or invalid.

Rescinding Tax Credits

A taxpayer may rescind all or part of an approved tax credit in any state fiscal year, and such amount will become available for that state fiscal year to another eligible taxpayer as approved by the DOR if the taxpayer received notice that the rescindment has been accepted. The DOR must obtain the Division's approval before accepting the rescindment under s. 561.1212. Any rescindment amount available for other eligible taxpayers must become available on a first-come, first-served basis based on tax credit applications received after the date of rescindment is accepted by the DOR.

Revenue Sources

Severance Taxes on Oil and Gas Production

The bill creates s. 211.0252, F.S., which, beginning July 1, 2022, authorizes a credit of 100 percent of an eligible contribution to an eligible charitable organization against the oil or gas production severance tax. The credit, combined with credits taken under the Florida Tax Credit Scholarship Program, may not exceed 50 percent of the tax due on the return the credit is taken. If the combined credit exceeds 50 percent, the Florida Tax Credit Scholarship Program credit must be taken first. The bill directs the DOR to disregard tax credits under this section for purposes of the distributions of oil and gas tax revenue, so that only amounts distributed to the General Revenue Fund are reduced.

Sales Taxes Paid by Direct Pay Permit Holders

The bill creates s. 212.1833, F.S., which, beginning July 1, 2022, authorizes a credit of 100 percent of an eligible contribution to an eligible charitable organization against any state sales tax due from a direct pay permit holder as a result of the direct pay permit held pursuant to s. 212.183, F.S. The bill requires DOR to include eligible contributions in certain tax calculations. The bill directs the DOR to disregard tax credits under this section for purposes of the distributions of sales tax revenue, so that only amounts distributed to the General Revenue Fund are reduced. The bill requires a dealer who claims the credit to file and pay sales taxes electronically.

Corporate Income Tax

The bill creates s. 220.1876, F.S., which, beginning January 1, 2022, authorizes a credit of 100 percent of an eligible contribution to an eligible charitable organization against the state corporate income tax after any other allowable credits by the taxpayer. An eligible contribution must be made on or before the date the taxpayer is required to file a return. A taxpayer who files a Florida consolidated return is eligible for the credit.

Section 402.62 applies to the credit created under s. 220.1876, F.S. If an extension to file a return is requested, the credit does not reduce the amount of tentative tax due. A taxpayer's noncompliance with the requirement to pay tentative taxes must result in the revocation and rescindment of any such credit, and the taxpayer will be assessed for any taxes, penalties, or interest due from such noncompliance.

The bill amends three additional provisions that are solely related to corporate income tax related to the ordering and administration of tax credits, to:

- Specify the order that credits for contributions to eligible charitable organizations are to be claimed relative to other credits authorized under ch. 220, F.S.;
- Require adding tax credit amounts claimed under s. 220.1876, F.S., back to taxable income, which prevents a taxpayer from claiming the amount as both a credit and a deduction, and to specify an exception under which a taxpayer would not add back the amount in the current taxable year; and
- Specify that the Strong Families Tax Credit is not included in the calculation of the Florida AMT credit.

Alcoholic Beverage Taxes

The bill creates s. 561.1212, F.S., to authorize a credit of 100 percent of an eligible contribution to an eligible charitable organization against the excise tax on alcoholic beverages, except for taxes imposed on domestic wine production, beginning January 1, 2022. Further, the credit is limited to 90 percent of the tax due on the return the credit is taken. The Division is directed to disregard tax credits under this section for purposes of the distributions of tax revenue under ss. 561.121 and 564.06(10), F.S., so that only amounts distributed to the General Revenue Fund are reduced.

Insurance Premium Tax

The bill creates s. 624.51056, F.S., which, beginning January 1, 2022, authorizes a credit of 100 percent of an eligible contribution to an eligible charitable organization against the insurance premium tax due under s. 624.509(1), F.S., after deducting from such tax deductions for assessments made pursuant to s. 440.51, F.S., and credits for taxes paid under ss. 175.01, F.S., 185.08, F.S., ch. 220, F.S., or s. 624.509, F.S. The contribution must be made on or before the date the taxpayer is required to file a return. The credit is not limited by retaliatory tax provisions, and no additional retaliatory tax may be levied under s. 624.5091, F.S. Section 402.62, F.S., applies to the credit authorized under s. 624.51056, F.S.

The bill provides rulemaking authority to the DOR, DCF, Auditor General, and the DBPR. In addition, the DOR is granted emergency rulemaking authority for purposes of implementing the act.

Specific Appropriation

An appropriation of \$208,000 nonrecurring funds from General Revenue is provided to the DOR for implementation costs.

Florida Institute of Child Welfare Study

The bill directs the FICW to perform an analysis of the use of funding provided by the tax credit and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 31, 2025.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provisions of Art. VII, s. 18 of the State Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

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

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill. Staff estimates that the bill has a significant but indeterminate negative impact to state revenues; however, the impact to state revenues is a maximum reduction of \$5 million per fiscal year, beginning in Fiscal Year 2021-2022.

Under current law:⁶⁰

- The revenue for the state portion of an employee's state and national criminal history record check will be \$24 per name submitted; and
- The revenue for the state portion of a volunteer's state and national criminal history record check will be \$18 per volunteer name submitted;

These funds are also subject to a general revenue service charge of 8 percent pursuant to ch. 215, FS.⁶¹

B. Private Sector Impact:

Eligible charitable organizations under the Strong Families Tax Credit will benefit from the dollar-for-dollar credit against certain tax liabilities, up to a cap of \$5 million per fiscal year.

Charitable organizations will be required to obtain an audit from an independent certified public accountant in order to participate.⁶²

⁶⁰ Section 943.053, F.S.; The Florida Department of Law Enforcement, *Agency Analysis of CS/SB 908*, 4-5, March 23, 2021 (on file with the Committee on Finance and Tax).

⁶¹ *Id.* at 4-5.

⁶² *Id.*

For state and national criminal history checks, VECHS approved organizations will pay:

- \$37.25 for each employee electronic submission; and
- \$29.25 for each volunteer electronic submission.⁶³

C. Government Sector Impact:

The DOR estimates that it requires \$203,903 in Fiscal Year 2021-2022 to administer the bill.⁶⁴ The bill appropriates \$208,000 in non-recurring general revenue funds to the DOR to implement its provisions.

The DCF will incur administrative costs to implement the bill.⁶⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 220.02, 220.13, and 220.186.

This bill creates the following sections of the Florida Statutes: 211.0252, 212.1833, 220.1876, 402.62, 561.1212, and 624.51056.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Finance and Tax on March 31, 2021:

The committee substitute:

- Removes a requirement for the corporate income tax credit under the bill to be reduced by the difference between the amount of federal corporate income tax applying the credit and the amount of federal corporate income tax without application of the credit, and makes a conforming change.
- Specifies Fiscal Year 2021-2022 as the year when the tax credit cap amount begins.
- Corrects a cross-reference

⁶³ VECHS Program.

⁶⁴ Florida Dep't of Revenue, *Agency Analysis of House Bill 897*, 9, March 3, 2021, (on file with the Senate Committee on Finance and Tax).

⁶⁵ Florida Dep't of Children and Families, *Agency Analysis of SB 908*, 4, (Feb. 5, 2021) (on file with the Senate Committee on Finance and Tax).

CS by Children, Families, and Elder Affairs on March 23, 2021.

The committee substitute requires an eligible charitable organization to apply for admittance into FDLE's Volunteer and Employee Criminal History System and, if accepted, conduct level 2 background screening and perform a check of the Dru Sjodin National Sex Offender Public Website for all volunteers and staff working directly with children in any program funded under the bill.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 04/01/2021 | . | |
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The Committee on Finance and Tax (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Delete lines 219 - 398

and insert:

(2) A taxpayer who files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1) may be allowed the credit on a consolidated return basis.

(3) Section 402.62 applies to the credit authorized by this section.

(4) If a taxpayer applies and is approved for a credit



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11 under s. 402.62 after timely requesting an extension to file
12 under s. 220.222(2):

13 (a) The credit does not reduce the amount of tax due for
14 purposes of the department's determination as to whether the
15 taxpayer was in compliance with the requirement to pay tentative
16 taxes under ss. 220.222 and 220.32.

17 (b) The taxpayer's noncompliance with the requirement to
18 pay tentative taxes shall result in the revocation and
19 rescindment of any such credit.

20 (c) The taxpayer shall be assessed for any taxes,
21 penalties, or interest due from the taxpayer's noncompliance
22 with the requirement to pay tentative taxes.

23 Section 7. Section 402.62, Florida Statutes, is created to
24 read:

25 402.62 Strong Families Tax Credit.—

26 (1) DEFINITIONS.—As used in this section, the term:

27 (a) "Annual tax credit amount" means, for any state fiscal
28 year, the sum of the amount of tax credits approved under
29 paragraph (5) (b), including tax credits to be taken under s.
30 211.0252, s. 212.1833, s. 220.1876, s. 561.1212, or s.
31 624.51056, which are approved for taxpayers whose taxable years
32 begin on or after January 1 of the calendar year preceding the
33 start of the applicable state fiscal year.

34 (b) "Division" means the Division of Alcoholic Beverages
35 and Tobacco of the Department of Business and Professional
36 Regulation.

37 (c) "Eligible charitable organization" means an
38 organization designated by the Department of Children and
39 Families to be eligible to receive funding under this section.



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40 (d) "Eligible contribution" means a monetary contribution
41 from a taxpayer, subject to the restrictions provided in this
42 section, to an eligible charitable organization. The taxpayer
43 making the contribution may not designate a specific child
44 assisted by the eligible charitable organization as the
45 beneficiary of the contribution.

46 (e) "Tax credit cap amount" means the maximum annual tax
47 credit amount that the Department of Revenue may approve for a
48 state fiscal year.

49 (2) STRONG FAMILIES TAX CREDITS; ELIGIBILITY.—

50 (a) The Department of Children and Families shall designate
51 as an eligible charitable organization an organization that
52 meets all of the following requirements:

53 1. Is exempt from federal income taxation under s.
54 501(c)(3) of the Internal Revenue Code.

55 2. Is a Florida entity formed under chapter 605, chapter
56 607, or chapter 617 and whose principal office is located in
57 this state.

58 3. Provides services to:

59 a. Prevent child abuse, neglect, abandonment, or
60 exploitation;

61 b. Assist fathers in learning and improving parenting
62 skills or to engage absent fathers in being more engaged in
63 their children's lives;

64 c. Provide books to the homes of children eligible for a
65 federal free or reduced-price meals program or those testing
66 below grade level in kindergarten through grade 5;

67 d. Assist families with children who have a chronic illness
68 or a physical, intellectual, developmental, or emotional



69 disability; or

70 e. Provide workforce development services to families of
71 children eligible for a federal free or reduced-price meals
72 program.

73 4. Provides to the Department of Children and Families
74 accurate information, including, at a minimum, a description of
75 the services provided by the organization which are eligible for
76 funding under this section; the total number of individuals
77 served through those services during the last calendar year and
78 the number served during the last calendar year using funding
79 under this section; basic financial information regarding the
80 organization and services eligible for funding under this
81 section; outcomes for such services; and contact information for
82 the organization.

83 5. Annually submits a statement, signed under penalty of
84 perjury by a current officer of the organization, that the
85 organization meets all criteria to qualify as an eligible
86 charitable organization, has fulfilled responsibilities under
87 this section for the previous fiscal year if the organization
88 received any funding through this credit during the previous
89 year, and intends to fulfill its responsibilities during the
90 upcoming year.

91 6. Provides any documentation requested by the Department
92 of Children and Families to verify eligibility as an eligible
93 charitable organization or compliance with this section.

94 (b) The Department of Children and Families may not
95 designate as an eligible charitable organization an organization
96 that:

97 1. Provides abortions, pays for or provides coverage for



98 abortions, or financially supports any other entity that
99 provides, pays for, or provides coverage for abortions; or
100 2. Has received more than 50 percent of its total annual
101 revenue from the Department of Children and Families, either
102 directly or via a contractor of the department, in the prior
103 fiscal year.
104 (3) RESPONSIBILITIES OF ELIGIBLE CHARITABLE ORGANIZATIONS.—
105 An eligible charitable organization that receives a contribution
106 under this section must do all of the following:
107 (a) Apply for admittance into the Department of Law
108 Enforcement's Volunteer and Employee Criminal History System
109 and, if accepted, conduct background screening on all volunteers
110 and staff working directly with children in any program funded
111 under this section pursuant to s. 943.0542. Background screening
112 shall use level 2 screening standards pursuant to s. 435.04 and
113 additionally include, but need not be limited to, a check of the
114 Dru Sjodin National Sex Offender Public Website.
115 (b) Expend 100 percent of any contributions received under
116 this section for direct services to state residents for the
117 purposes specified in subparagraph (2) (a)3.
118 (c) Annually submit to the Department of Children and
119 Families:
120 1. An audit of the eligible charitable organization
121 conducted by an independent certified public accountant in
122 accordance with auditing standards generally accepted in the
123 United States, government auditing standards, and rules adopted
124 by the Auditor General. The audit report must include a report
125 on financial statements presented in accordance with generally
126 accepted accounting principles. The audit report must be



127 provided to the Department of Children and Families within 180
128 days after completion of the eligible charitable organization's
129 fiscal year; and

130 2. A copy of the eligible charitable organization's most
131 recent federal Internal Revenue Service Return of Organization
132 Exempt from Income Tax form (Form 990).

133 (d) Notify the Department of Children and Families within 5
134 business days after the eligible charitable organization ceases
135 to meet eligibility requirements or fails to fulfill its
136 responsibilities under this section.

137 (e) Upon receipt of a contribution, provide the taxpayer
138 that made the contribution with a certificate of contribution. A
139 certificate of contribution must include the taxpayer's name
140 and, if available, its federal employer identification number,
141 the amount contributed, the date of contribution, and the name
142 of the eligible charitable organization.

143 (4) RESPONSIBILITIES OF THE DEPARTMENT.—The Department of
144 Children and Families shall do all of the following:

145 (a) Annually redesignate eligible charitable organizations
146 that have complied with all requirements of this section.

147 (b) Remove the designation of organizations that fail to
148 meet all requirements of this section. An organization that has
149 had its designation removed by the department may reapply for
150 designation as an eligible charitable organization, and the
151 department shall redesignate such organization, if it meets the
152 requirements of this section and demonstrates through its
153 application that all factors leading to its removal as an
154 eligible charitable organization have been sufficiently
155 addressed.



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156 (c) Publish information about the tax credit program and
157 eligible charitable organizations on a Department of Children
158 and Families website. The website must, at a minimum, provide
159 all of the following:

160 1. The requirements and process for becoming designated or
161 redesignated as an eligible charitable organization.

162 2. A list of the eligible charitable organizations that are
163 currently designated by the department and the information
164 provided under subparagraph (2)(a)4. regarding each eligible
165 charitable organization.

166 3. The process for a taxpayer to select an eligible
167 charitable organization as the recipient of funding through a
168 tax credit.

169 (d) Compel the return of funds that are provided to an
170 eligible charitable organization that fails to comply with the
171 requirements of this section. Eligible charitable organizations
172 that are subject to return of funds are ineligible to receive
173 funding under this section for a period 10 years after final
174 agency action to compel the return of funding.

175 (5) STRONG FAMILIES TAX CREDITS; APPLICATIONS, TRANSFERS,
176 AND LIMITATIONS.-

177 (a) Beginning in fiscal year 2021-2022, the tax credit cap
178 amount is \$5 million in each state

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

181 And the title is amended as follows:

182 Delete line 18

183 and insert:

184 requirements and procedures for



717216

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 04/01/2021 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment to Amendment (482760)

Delete lines 97 - 99

and insert:

1. Provides abortions or pays for or provides coverage for abortions; or



764374

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: WD | . | |
| 04/01/2021 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment

Delete lines 317 - 321
and insert:
that has received more than 50 percent of its total annual

By the Committee on Children, Families, and Elder Affairs; and
Senator Rodrigues

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1 A bill to be entitled
2 An act relating to the Strong Families Tax Credit;
3 creating ss. 211.0252 and 212.1833, F.S.; providing
4 credits against oil and gas production taxes and sales
5 taxes payable by direct pay permitholders,
6 respectively, under the Strong Families Tax Credit;
7 specifying requirements and procedures for, and
8 limitations on, the credits; amending s. 220.02, F.S.;
9 revising the order in which the corporate income tax
10 credit under the Strong Families Tax Credit is
11 applied; amending s. 220.13, F.S.; revising the
12 definition of the term "adjusted federal income";
13 amending s. 220.186, F.S.; revising the calculation of
14 the corporate income tax credit for the Florida
15 alternative minimum tax; creating s. 220.1876, F.S.;
16 providing a credit against the corporate income tax
17 under the Strong Families Tax Credit; specifying
18 requirements and procedures for, and limitations on,
19 the credit; creating s. 402.62, F.S.; creating the
20 Strong Families Tax Credit; defining terms; specifying
21 requirements for the Department of Children and
22 Families in designating eligible charitable
23 organizations; specifying requirements for eligible
24 charitable organizations receiving contributions;
25 specifying duties of the Department of Children and
26 Families; specifying a limitation on, and application
27 procedures for, the tax credit; specifying
28 requirements and procedures for, and restrictions on,
29 the carryforward, conveyance, transfer, assignment,

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30 and rescindment of credits; specifying requirements
31 and procedures for the Department of Revenue;
32 providing construction; authorizing the Department of
33 Revenue, the Division of Alcoholic Beverages and
34 Tobacco of the Department of Business and Professional
35 Regulation, and the Department of Children and
36 Families to develop a cooperative agreement and adopt
37 rules; authorizing certain interagency information
38 sharing; creating ss. 561.1212 and 624.51056, F.S.;
39 providing credits against excise taxes on certain
40 alcoholic beverages and the insurance premium tax,
41 respectively, under the Strong Families Tax Credit;
42 specifying requirements and procedures for, and
43 limitations on, the credits; authorizing the
44 Department of Revenue to adopt emergency rules to
45 implement provisions related to the Strong Families
46 Tax Credit; providing an appropriation; requiring the
47 Florida Institute for Child Welfare to provide a
48 certain report to the Governor and the Legislature by
49 a specified date; providing an effective date.
50
51 Be It Enacted by the Legislature of the State of Florida:
52
53 Section 1. Section 211.0252, Florida Statutes, is created
54 to read:
55 211.0252 Credit for contributions to eligible charitable
56 organizations.—Beginning January 1, 2022, there is allowed a
57 credit of 100 percent of an eligible contribution made to an
58 eligible charitable organization under s. 402.62 against any tax

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59 due under s. 211.02 or s. 211.025. However, the combined credit
 60 allowed under this section and s. 211.0251 may not exceed 50
 61 percent of the tax due on the return on which the credit is
 62 taken. If the combined credit allowed under this section and s.
 63 211.0251 exceeds 50 percent of the tax due on the return, the
 64 credit must first be taken under s. 211.0251. Any remaining
 65 liability must be taken under this section, but may not exceed
 66 50 percent of the tax due. For purposes of the distributions of
 67 tax revenue under s. 211.06, the department shall disregard any
 68 tax credits allowed under this section to ensure that any
 69 reduction in tax revenue received which is attributable to the
 70 tax credits results only in a reduction in distributions to the
 71 General Revenue Fund. Section 402.62 applies to the credit
 72 authorized by this section.

73 Section 2. Section 212.1833, Florida Statutes, is created
 74 to read:

75 212.1833 Credit for contributions to eligible charitable
 76 organizations.—Beginning January 1, 2022, there is allowed a
 77 credit of 100 percent of an eligible contribution made to an
 78 eligible charitable organization under s. 402.62 against any tax
 79 imposed by the state and due under this chapter from a direct
 80 pay permitholder as a result of the direct pay permit held
 81 pursuant to s. 212.183. For purposes of the dealer's credit
 82 granted for keeping prescribed records, filing timely tax
 83 returns, and properly accounting and remitting taxes under s.
 84 212.12, the amount of tax due used to calculate the credit shall
 85 include any eligible contribution made to an eligible charitable
 86 organization from a direct pay permitholder. For purposes of the
 87 distributions of tax revenue under s. 212.20, the department

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88 shall disregard any tax credits allowed under this section to
 89 ensure that any reduction in tax revenue received which is
 90 attributable to the tax credits results only in a reduction in
 91 distributions to the General Revenue Fund. Section 402.62
 92 applies to the credit authorized by this section. A dealer who
 93 claims a tax credit under this section must file his or her tax
 94 returns and pay his or her taxes by electronic means under s.
 95 213.755.

96 Section 3. Subsection (8) of section 220.02, Florida
 97 Statutes, is amended to read:

98 220.02 Legislative intent.—

99 (8) It is the intent of the Legislature that credits
 100 against either the corporate income tax or the franchise tax be
 101 applied in the following order: those enumerated in s. 631.828,
 102 those enumerated in s. 220.191, those enumerated in s. 220.181,
 103 those enumerated in s. 220.183, those enumerated in s. 220.182,
 104 those enumerated in s. 220.1895, those enumerated in s. 220.195,
 105 those enumerated in s. 220.184, those enumerated in s. 220.186,
 106 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 107 those enumerated in s. 220.185, those enumerated in s. 220.1875,
 108 those enumerated in s. 220.1876, those enumerated in s. 220.193,
 109 those enumerated in s. 288.9916, those enumerated in s.
 110 220.1899, those enumerated in s. 220.194, and those enumerated
 111 in s. 220.196.

112 Section 4. Paragraph (a) of subsection (1) of section
 113 220.13, Florida Statutes, is amended to read:

114 220.13 "Adjusted federal income" defined.—

115 (1) The term "adjusted federal income" means an amount
 116 equal to the taxpayer's taxable income as defined in subsection

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117 (2), or such taxable income of more than one taxpayer as
 118 provided in s. 220.131, for the taxable year, adjusted as
 119 follows:

120 (a) *Additions*.—There shall be added to such taxable income:

121 1.a. The amount of any tax upon or measured by income,
 122 excluding taxes based on gross receipts or revenues, paid or
 123 accrued as a liability to the District of Columbia or any state
 124 of the United States which is deductible from gross income in
 125 the computation of taxable income for the taxable year.

126 b. Notwithstanding sub-subparagraph a., if a credit taken
 127 under s. 220.1875 or s. 220.1876 is added to taxable income in a
 128 previous taxable year under subparagraph 11. and is taken as a
 129 deduction for federal tax purposes in the current taxable year,
 130 the amount of the deduction allowed shall not be added to
 131 taxable income in the current year. The exception in this sub-
 132 subparagraph is intended to ensure that the credit under s.
 133 220.1875 or s. 220.1876 is added in the applicable taxable year
 134 and does not result in a duplicate addition in a subsequent
 135 year.

136 2. The amount of interest which is excluded from taxable
 137 income under s. 103(a) of the Internal Revenue Code or any other
 138 federal law, less the associated expenses disallowed in the
 139 computation of taxable income under s. 265 of the Internal
 140 Revenue Code or any other law, excluding 60 percent of any
 141 amounts included in alternative minimum taxable income, as
 142 defined in s. 55(b)(2) of the Internal Revenue Code, if the
 143 taxpayer pays tax under s. 220.11(3).

144 3. In the case of a regulated investment company or real
 145 estate investment trust, an amount equal to the excess of the

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146 net long-term capital gain for the taxable year over the amount
 147 of the capital gain dividends attributable to the taxable year.

148 4. That portion of the wages or salaries paid or incurred
 149 for the taxable year which is equal to the amount of the credit
 150 allowable for the taxable year under s. 220.181. This
 151 subparagraph shall expire on the date specified in s. 290.016
 152 for the expiration of the Florida Enterprise Zone Act.

153 5. That portion of the ad valorem school taxes paid or
 154 incurred for the taxable year which is equal to the amount of
 155 the credit allowable for the taxable year under s. 220.182. This
 156 subparagraph shall expire on the date specified in s. 290.016
 157 for the expiration of the Florida Enterprise Zone Act.

158 6. The amount taken as a credit under s. 220.195 which is
 159 deductible from gross income in the computation of taxable
 160 income for the taxable year.

161 7. That portion of assessments to fund a guaranty
 162 association incurred for the taxable year which is equal to the
 163 amount of the credit allowable for the taxable year.

164 8. In the case of a nonprofit corporation which holds a
 165 pari-mutuel permit and which is exempt from federal income tax
 166 as a farmers' cooperative, an amount equal to the excess of the
 167 gross income attributable to the pari-mutuel operations over the
 168 attributable expenses for the taxable year.

169 9. The amount taken as a credit for the taxable year under
 170 s. 220.1895.

171 10. Up to nine percent of the eligible basis of any
 172 designated project which is equal to the credit allowable for
 173 the taxable year under s. 220.185.

174 11. Any ~~The~~ amount taken as a credit for the taxable year

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175 under s. 220.1875 or s. 220.1876. The addition in this
 176 subparagraph is intended to ensure that the same amount is not
 177 allowed for the tax purposes of this state as both a deduction
 178 from income and a credit against the tax. This addition is not
 179 intended to result in adding the same expense back to income
 180 more than once.

181 12. The amount taken as a credit for the taxable year under
 182 s. 220.193.

183 13. Any portion of a qualified investment, as defined in s.
 184 288.9913, which is claimed as a deduction by the taxpayer and
 185 taken as a credit against income tax pursuant to s. 288.9916.

186 14. The costs to acquire a tax credit pursuant to s.
 187 288.1254(5) that are deducted from or otherwise reduce federal
 188 taxable income for the taxable year.

189 15. The amount taken as a credit for the taxable year
 190 pursuant to s. 220.194.

191 16. The amount taken as a credit for the taxable year under
 192 s. 220.196. The addition in this subparagraph is intended to
 193 ensure that the same amount is not allowed for the tax purposes
 194 of this state as both a deduction from income and a credit
 195 against the tax. The addition is not intended to result in
 196 adding the same expense back to income more than once.

197 Section 5. Subsection (2) of section 220.186, Florida
 198 Statutes, is amended to read:

199 220.186 Credit for Florida alternative minimum tax.—

200 (2) The credit pursuant to this section shall be the amount
 201 of the excess, if any, of the tax paid based upon taxable income
 202 determined pursuant to s. 220.13(2)(k) over the amount of tax
 203 which would have been due based upon taxable income without

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204 application of s. 220.13(2)(k), before application of this
 205 credit without application of any credit under s. 220.1875 or s.
 206 220.1876.

207 Section 6. Section 220.1876, Florida Statutes, is created
 208 to read:

209 220.1876 Credit for contributions to eligible charitable
 210 organizations.—

211 (1) For taxable years beginning on or after January 1,
 212 2022, there is allowed a credit of 100 percent of an eligible
 213 contribution made to an eligible charitable organization under
 214 s. 402.62 against any tax due for a taxable year under this
 215 chapter after the application of any other allowable credits by
 216 the taxpayer. An eligible contribution must be made to an
 217 eligible charitable organization on or before the date the
 218 taxpayer is required to file a return pursuant to s. 220.222.
 219 The credit granted by this section shall be reduced by the
 220 difference between the amount of federal corporate income tax,
 221 taking into account the credit granted by this section, and the
 222 amount of federal corporate income tax without application of
 223 the credit granted by this section.

224 (2) A taxpayer who files a Florida consolidated return as a
 225 member of an affiliated group pursuant to s. 220.131(1) may be
 226 allowed the credit on a consolidated return basis; however, the
 227 total credit taken by the affiliated group is subject to the
 228 limitation established under subsection (1).

229 (3) Section 402.62 applies to the credit authorized by this
 230 section.

231 (4) If a taxpayer applies and is approved for a credit
 232 under s. 402.62 after timely requesting an extension to file

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233 under s. 220.222(2):

234 (a) The credit does not reduce the amount of tax due for
 235 purposes of the department's determination as to whether the
 236 taxpayer was in compliance with the requirement to pay tentative
 237 taxes under ss. 220.222 and 220.32.

238 (b) The taxpayer's noncompliance with the requirement to
 239 pay tentative taxes shall result in the revocation and
 240 rescindment of any such credit.

241 (c) The taxpayer shall be assessed for any taxes,
 242 penalties, or interest due from the taxpayer's noncompliance
 243 with the requirement to pay tentative taxes.

244 Section 7. Section 402.62, Florida Statutes, is created to
 245 read:

246 402.62 Strong Families Tax Credit.—

247 (1) DEFINITIONS.—As used in this section, the term:

248 (a) "Annual tax credit amount" means, for any state fiscal
 249 year, the sum of the amount of tax credits approved under
 250 paragraph (5) (b), including tax credits to be taken under s.
 251 211.0252, s. 212.1833, s. 220.1876, s. 561.1212, or s.
 252 624.51056, which are approved for taxpayers whose taxable years
 253 begin on or after January 1 of the calendar year preceding the
 254 start of the applicable state fiscal year.

255 (b) "Division" means the Division of Alcoholic Beverages
 256 and Tobacco of the Department of Business and Professional
 257 Regulation.

258 (c) "Eligible charitable organization" means an
 259 organization designated by the Department of Children and
 260 Families to be eligible to receive funding under this section.

261 (d) "Eligible contribution" means a monetary contribution

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262 from a taxpayer, subject to the restrictions provided in this
 263 section, to an eligible charitable organization. The taxpayer
 264 making the contribution may not designate a specific child
 265 assisted by the eligible charitable organization as the
 266 beneficiary of the contribution.

267 (e) "Tax credit cap amount" means the maximum annual tax
 268 credit amount that the Department of Revenue may approve for a
 269 state fiscal year.

270 (2) STRONG FAMILIES TAX CREDITS; ELIGIBILITY.—

271 (a) The Department of Children and Families shall designate
 272 as an eligible charitable organization an organization that
 273 meets all of the following requirements:

274 1. Is exempt from federal income taxation under s.
 275 501(c)(3) of the Internal Revenue Code.

276 2. Is a Florida entity formed under chapter 605, chapter
 277 607, or chapter 617 and whose principal office is located in
 278 this state.

279 3. Provides services to:

280 a. Prevent child abuse, neglect, abandonment, or
 281 exploitation;

282 b. Assist fathers in learning and improving parenting
 283 skills or to engage absent fathers in being more engaged in
 284 their children's lives;

285 c. Provide books to the homes of children eligible for a
 286 federal free or reduced-price meals program or those testing
 287 below grade level in kindergarten through Grade 5;

288 d. Assist families with children who have a chronic illness
 289 or a physical, intellectual, developmental, or emotional
 290 disability; or

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291 e. Provide workforce development services to families of
 292 children eligible for a federal free or reduced-price meals
 293 program.

294 4. Provides to the Department of Children and Families
 295 accurate information, including, at a minimum, a description of
 296 the services provided by the organization which are eligible for
 297 funding under this section; the total number of individuals
 298 served through those services during the last calendar year and
 299 the number served during the last calendar year using funding
 300 under this section; basic financial information regarding the
 301 organization and services eligible for funding under this
 302 section; outcomes for such services; and contact information for
 303 the organization.

304 5. Annually submits a statement signed, under penalty of
 305 perjury, by a current officer of the organization, that the
 306 organization meets all criteria to qualify as an eligible
 307 charitable organization, has fulfilled responsibilities under
 308 this section for the previous fiscal year if the organization
 309 received any funding through this credit during the previous
 310 year, and intends to fulfill its responsibilities during the
 311 upcoming year.

312 6. Provides any documentation requested by the Department
 313 of Children and Families to verify eligibility as an eligible
 314 charitable organization or compliance with this section.

315 (b) The Department of Children and Families may not
 316 designate as an eligible charitable organization an organization
 317 that:

318 1. Provides abortions, pays for or provides coverage for
 319 abortions, or financially supports any other entity that

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320 provides, pays for, or provides coverage for abortions; or

321 2. Has received more than 50 percent of its total annual
 322 revenue from the Department of Children and Families, either
 323 directly or via a contractor of the department, in the prior
 324 fiscal year.

325 (3) RESPONSIBILITIES OF ELIGIBLE CHARITABLE ORGANIZATIONS.-
 326 An eligible charitable organization that receives a contribution
 327 under this section must do all of the following:

328 (a) Apply for admittance into the Department of Law
 329 Enforcement's Volunteer and Employee Criminal History System
 330 and, if accepted, conduct background screening on all volunteers
 331 and staff working directly with children in any program funded
 332 under this section pursuant to s. 943.0542. Background screening
 333 shall use level 2 screening standards pursuant to s. 435.04 and
 334 additionally include, but need not be limited to, a check of the
 335 Dru Sjodin National Sex Offender Public Website.

336 (b) Expend 100 percent of any contributions received under
 337 this section for direct services to state residents for the
 338 purposes specified in subparagraph (2)(a)3.

339 (c) Annually submit to the Department of Children and
 340 Families:

341 1. An audit of the eligible charitable organization
 342 conducted by an independent certified public accountant in
 343 accordance with auditing standards generally accepted in the
 344 United States, government auditing standards, and rules adopted
 345 by the Auditor General. The audit report must include a report
 346 on financial statements presented in accordance with generally
 347 accepted accounting principles. The audit report must be
 348 provided to the Department of Children and Families within 180

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349 days after completion of the eligible charitable organization's
 350 fiscal year; and

351 2. A copy of the eligible charitable organization's most
 352 recent federal Internal Revenue Service Return of Organization
 353 Exempt from Income Tax form (Form 990).

354 (d) Notify the Department of Children and Families within 5
 355 business days after the eligible charitable organization ceases
 356 to meet eligibility requirements or fails to fulfill its
 357 responsibilities under this section.

358 (e) Upon receipt of a contribution, provide the taxpayer
 359 that made the contribution with a certificate of contribution. A
 360 certificate of contribution must include the taxpayer's name
 361 and, if available, its federal employer identification number,
 362 the amount contributed, the date of contribution, and the name
 363 of the eligible charitable organization.

364 (4) RESPONSIBILITIES OF THE DEPARTMENT.—The Department of
 365 Children and Families shall do all of the following:

366 (a) Annually redesignate eligible charitable organizations
 367 that have complied with all requirements of this section.

368 (b) Remove the designation of organizations that fail to
 369 meet all requirements of this section. An organization that has
 370 had its designation removed by the department may reapply for
 371 designation as an eligible charitable organization, and the
 372 department shall redesignate such organization if it meets the
 373 requirements of this section and demonstrates through its
 374 application that all factors leading to its removal as an
 375 eligible charitable organization have been sufficiently
 376 addressed.

377 (c) Publish information about the tax credit program and

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378 eligible charitable organizations on a Department of Children
 379 and Families website. The website shall, at a minimum, provide
 380 all of the following:

381 1. The requirements and process for becoming designated or
 382 redesignated as an eligible charitable organization.

383 2. A list of the eligible charitable organizations that are
 384 currently designated by the department and the information
 385 provided under subparagraph (2)(a)5. regarding each eligible
 386 charitable organization.

387 3. The process for a taxpayer to select an eligible
 388 charitable organization as the recipient of funding through a
 389 tax credit.

390 (d) Compel the return of funds that are provided to an
 391 eligible charitable organization that fails to comply with the
 392 requirements of this section. Eligible charitable organizations
 393 that are subject to return of funds are ineligible to receive
 394 funding under this section for a period 10 years after final
 395 agency action to compel the return of funding.

396 (5) STRONG FAMILIES TAX CREDITS; APPLICATIONS, TRANSFERS,
 397 AND LIMITATIONS.—

398 (a) The tax credit cap amount is \$5 million in each state
 399 fiscal year.

400 (b) Beginning October 1, 2021, a taxpayer may submit an
 401 application to the Department of Revenue for a tax credit or
 402 credits to be taken under one or more of s. 211.0252, s.
 403 212.1833, s. 220.1876, s. 561.1212, or s. 624.51056.

404 1. The taxpayer shall specify in the application each tax
 405 for which the taxpayer requests a credit and the applicable
 406 taxable year for a credit under s. 220.1876 or s. 624.51056 or

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407 the applicable state fiscal year for a credit under s. 211.0252,
 408 s. 212.1833, or s. 561.1212. For purposes of s. 220.1876, a
 409 taxpayer may apply for a credit to be used for a prior taxable
 410 year before the date the taxpayer is required to file a return
 411 for that year pursuant to s. 220.222. For purposes of s.
 412 624.51056, a taxpayer may apply for a credit to be used for a
 413 prior taxable year before the date the taxpayer is required to
 414 file a return for that prior taxable year pursuant to ss.
 415 624.509 and 624.5092. The application must specify the eligible
 416 charitable organization to which the proposed contribution will
 417 be made. The Department of Revenue shall approve tax credits on
 418 a first-come, first-served basis and must obtain the division's
 419 approval before approving a tax credit under s. 561.1212.

420 2. Within 10 days after approving or denying an
 421 application, the Department of Revenue shall provide a copy of
 422 its approval or denial letter to the eligible charitable
 423 organization specified by the taxpayer in the application.

424 (c) If a tax credit approved under paragraph (b) is not
 425 fully used within the specified state fiscal year for credits
 426 under s. 211.0252, s. 212.1833, or s. 561.1212 or against taxes
 427 due for the specified taxable year for credits under s. 220.1876
 428 or s. 624.51056 because of insufficient tax liability on the
 429 part of the taxpayer, the unused amount must be carried forward
 430 for a period not to exceed 10 years. For purposes of s.
 431 220.1876, a credit carried forward may be used in a subsequent
 432 year after applying the other credits and unused carryovers in
 433 the order provided in s. 220.02(8).

434 (d) A taxpayer may not convey, transfer, or assign an
 435 approved tax credit or a carryforward tax credit to another

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436 entity unless all of the assets of the taxpayer are conveyed,
 437 assigned, or transferred in the same transaction. However, a tax
 438 credit under s. 211.0252, s. 212.1833, s. 220.1876, s. 561.1212,
 439 or s. 624.51056 may be conveyed, transferred, or assigned
 440 between members of an affiliated group of corporations if the
 441 type of tax credit under s. 211.0252, s. 212.1833, s. 220.1876,
 442 s. 561.1212, or s. 624.51056 remains the same. A taxpayer shall
 443 notify the Department of Revenue of its intent to convey,
 444 transfer, or assign a tax credit to another member within an
 445 affiliated group of corporations. The amount conveyed,
 446 transferred, or assigned is available to another member of the
 447 affiliated group of corporations upon approval by the Department
 448 of Revenue. The Department of Revenue shall obtain the
 449 division's approval before approving a conveyance, transfer, or
 450 assignment of a tax credit under s. 561.1212.

451 (e) Within any state fiscal year, a taxpayer may rescind
 452 all or part of a tax credit approved under paragraph (b). The
 453 amount rescinded shall become available for that state fiscal
 454 year to another eligible taxpayer as approved by the Department
 455 of Revenue if the taxpayer receives notice from the Department
 456 of Revenue that the rescindment has been accepted by the
 457 Department of Revenue. The Department of Revenue must obtain the
 458 division's approval before accepting the rescindment of a tax
 459 credit under s. 561.1212. Any amount rescinded under this
 460 paragraph must become available to an eligible taxpayer on a
 461 first-come, first-served basis based on tax credit applications
 462 received after the date the rescindment is accepted by the
 463 Department of Revenue.

464 (f) Within 10 days after approving or denying the

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465 conveyance, transfer, or assignment of a tax credit under
 466 paragraph (d), or the rescindment of a tax credit under
 467 paragraph (e), the Department of Revenue shall provide a copy of
 468 its approval or denial letter to the eligible charitable
 469 organization specified by the taxpayer. The Department of
 470 Revenue shall also include the eligible charitable organization
 471 specified by the taxpayer on all letters or correspondence of
 472 acknowledgment for tax credits under s. 212.1833.

473 (g) For purposes of calculating the underpayment of
 474 estimated corporate income taxes under s. 220.34 and tax
 475 installment payments for taxes on insurance premiums or
 476 assessments under s. 624.5092, the final amount due is the
 477 amount after credits earned under s. 220.1876 or s. 624.51056
 478 for contributions to eligible charitable organizations are
 479 deducted.

480 1. For purposes of determining if a penalty or interest
 481 under s. 220.34(2)(d)1. will be imposed for underpayment of
 482 estimated corporate income tax, a taxpayer may, after earning a
 483 credit under s. 220.1876, reduce any estimated payment in that
 484 taxable year by the amount of the credit.

485 2. For purposes of determining if a penalty under s.
 486 624.5092 will be imposed, an insurer, after earning a credit
 487 under s. 624.51056 for a taxable year, may reduce any
 488 installment payment for such taxable year of 27 percent of the
 489 amount of the net tax due as reported on the return for the
 490 preceding year under s. 624.5092(2)(b) by the amount of the
 491 credit.

492 (6) PRESERVATION OF CREDIT.—If any provision or portion of
 493 this section, s. 211.0252, s. 212.1833, s. 220.1876, s.

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494 561.1212, or s. 624.51056 or the application thereof to any
 495 person or circumstance is held unconstitutional by any court or
 496 is otherwise declared invalid, the unconstitutionality or
 497 invalidity shall not affect any credit earned under s. 211.0252,
 498 s. 212.1833, s. 220.1876, s. 561.1212, or s. 624.51056 by any
 499 taxpayer with respect to any contribution paid to an eligible
 500 charitable organization before the date of a determination of
 501 unconstitutionality or invalidity. The credit shall be allowed
 502 at such time and in such a manner as if a determination of
 503 unconstitutionality or invalidity had not been made, provided
 504 that nothing in this subsection by itself or in combination with
 505 any other provision of law may result in the allowance of any
 506 credit to any taxpayer in excess of one dollar of credit for
 507 each dollar paid to an eligible charitable organization.

508 (7) ADMINISTRATION; RULES.—

509 (a) The Department of Revenue, the division, and the
 510 Department of Children and Families may develop a cooperative
 511 agreement to assist in the administration of this section, as
 512 needed.

513 (b) The Department of Revenue may adopt rules necessary to
 514 administer this section and ss. 211.0252, 212.1833, 220.1876,
 515 561.1212, and 624.51056, including rules establishing
 516 application forms, procedures governing the approval of tax
 517 credits and carryforward tax credits under subsection (5), and
 518 procedures to be followed by taxpayers when claiming approved
 519 tax credits on their returns.

520 (c) The division may adopt rules necessary to administer
 521 its responsibilities under this section and s. 561.1212.

522 (d) The Department of Children and Families may adopt rules

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523 necessary to administer this section, including, but not limited
 524 to, rules establishing application forms for organizations
 525 seeking designation as eligible charitable organizations under
 526 this act.

527 (e) Notwithstanding any provision of s. 213.053 to the
 528 contrary, sharing information with the division related to this
 529 tax credit is considered the conduct of the Department of
 530 Revenue's official duties as contemplated in s. 213.053(8)(c),
 531 and the Department of Revenue and the division are specifically
 532 authorized to share information as needed to administer this
 533 program.

534 Section 8. Section 561.1212, Florida Statutes, is created
 535 to read:

536 561.1212 Credit for contributions to eligible charitable
 537 organizations.—Beginning January 1, 2022, there is allowed a
 538 credit of 100 percent of an eligible contribution made to an
 539 eligible charitable organization under s. 402.62 against any tax
 540 due under s. 563.05, s. 564.06, or s. 565.12, except excise
 541 taxes imposed on wine produced by manufacturers in this state
 542 from products grown in this state. However, a credit allowed
 543 under this section may not exceed 90 percent of the tax due on
 544 the return on which the credit is taken. For purposes of the
 545 distributions of tax revenue under ss. 561.121 and 564.06(10),
 546 the division shall disregard any tax credits allowed under this
 547 section to ensure that any reduction in tax revenue received
 548 which is attributable to the tax credits results only in a
 549 reduction in distributions to the General Revenue Fund. The
 550 provisions of s. 402.62 apply to the credit authorized by this
 551 section.

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

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552 Section 9. Section 624.51056, Florida Statutes, is created
 553 to read:

554 624.51056 Credit for contributions to eligible charitable
 555 organizations.—

556 (1) For taxable years beginning on or after January 1,
 557 2022, there is allowed a credit of 100 percent of an eligible
 558 contribution made to an eligible charitable organization under
 559 s. 402.62 against any tax due for a taxable year under s.
 560 624.509(1) after deducting from such tax deductions for
 561 assessments made pursuant to s. 440.51; credits for taxes paid
 562 under ss. 175.101 and 185.08; credits for income taxes paid
 563 under chapter 220; and the credit allowed under s. 624.509(5),
 564 as such credit is limited by s. 624.509(6). An eligible
 565 contribution must be made to an eligible charitable organization
 566 on or before the date the taxpayer is required to file a return
 567 pursuant to ss. 624.509 and 624.5092. An insurer claiming a
 568 credit against premium tax liability under this section is not
 569 required to pay any additional retaliatory tax levied under s.
 570 624.5091 as a result of claiming such credit. Section 624.5091
 571 does not limit such credit in any manner.

572 (2) Section 402.62 applies to the credit authorized by this
 573 section.

574 Section 10. The Department of Revenue is authorized, and
 575 all conditions are deemed met, to adopt emergency rules under s.
 576 120.54(4), Florida Statutes, for the purpose of implementing
 577 provisions related to the Strong Families Tax Credit created by
 578 this act. Notwithstanding any other law, emergency rules adopted
 579 under this section are effective for 6 months after adoption and
 580 may be renewed during the pendency of procedures to adopt

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

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581 permanent rules addressing the subject of the emergency rules.

582 Section 11. For the 2021-2022 fiscal year, the sum of
583 \$208,000 in nonrecurring funds is appropriated from the General
584 Revenue Fund to the Department of Revenue for the purpose of
585 implementing the provisions related to the Strong Families Tax
586 Credit created by this act.

587 Section 12. The Florida Institute for Child Welfare shall
588 analyze the use of funding provided by the tax credit authorized
589 under s. 402.62, Florida Statutes, and submit a report to the
590 Governor, the President of the Senate, and the Speaker of the
591 House of Representatives by October 31, 2025. The report must,
592 at a minimum, include the total funding amount and categorize
593 the funding by type of program, describe the programs that were
594 funded, and assess the outcomes that were achieved using the
595 funding.

596 Section 13. This act shall take effect July 1, 2021.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR RAY WESLEY RODRIGUES

27th District

March 25, 2021

The Honorable Ana Maria Rodriguez
Senate Finance and Tax, Chair
215 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 908 – Strong Families Tax Credit

Dear Madame Chair:

Please allow this letter to serve as my respectful request to place SB 908, relating to the strong families tax credit, on the next committee agenda.

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

Sincerely,

A handwritten signature in cursive script that reads "Ray Rodriguez".

Ray Rodriguez
Senate District 27

Cc: Robert Babin, Staff Director
Stephanie Bell-Parke, Administrative Assistant

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Banking and Insurance
Finance and Tax
Judiciary
Regulated Industries

JOINT COMMITTEES:

Joint Select Committee on Collective Bargaining,
Alternating Chair
Joint Committee on Public Counsel Oversight

REPLY TO:

- 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

3-31-21

Meeting Date

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

SB 908

Bill Number (if applicable)

Topic SB 908

Amendment Barcode (if applicable)

Name Michael Cusick

Job Title Lobbyist

Address 200 W College Avenue

Phone (850) 222-5620

Street

Tallahassee

City

FL

State

32301

Zip

Email Mike@michaelcusick.com

Speaking: For Against Information

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

Representing Opportunity Solutions

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-31-21
Meeting Date

SB 908
Bill Number (if applicable)

Topic SB 908

Amendment Barcode (if applicable)

Name Megan Rose

Job Title CEO

Address 15275 Collier Boulevard Suite 201-279 Phone (904) 351-6846
Street

Naples, FL 34119
City State Zip

Email megan@bettertogether.org

Speaking: For Against Information

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

Representing Better Together

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1254

INTRODUCER: Finance and Tax Committee and Senator Bean

SUBJECT: Ad Valorem Assessments

DATE: March 31, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Hackett</u> | <u>Ryon</u> | <u>CA</u> | Favorable |
| 2. | <u>Gross</u> | <u>Babin</u> | <u>FT</u> | Fav/CS |
| 3. | _____ | _____ | <u>AP</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1254 provides two situations when title to homestead property may change without the property being reassessed at just value:

- When the title change is only to remove an owner or owners who held title as joint tenants with rights of survivorship with the owner who remains on the title.
- When the title change is only to remove a deceased person.

The bill also clarifies that ancillary improvements that are destroyed by storms or other calamities may be replaced and retain the taxable value assigned to those improvements prior to being destroyed. This change treats ancillary improvements just as other property is treated under current law.

The Revenue Estimating Conference determined that the bill will reduce local government revenues by an indeterminate amount beginning in Fiscal Year 2021-2022.

The bill takes effect July 1, 2021.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing jurisdiction, applies the appropriate assessment limitation to determine the assessed value, and then applies relevant exclusions and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

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

Homestead Property Change of Ownership

Homestead property is assessed at just value as of January 1 of the year following a change of ownership. A change of ownership is any sale, foreclosure, or transfer of legal or beneficial title, except where:⁶

- After the change the same owner is still entitled to the homestead exemption and:
 - The transfer of title is to correct an error;
 - The transfer is between legal and equitable title or equitable and equitable title and no additional person applies for a homestead exemption;
 - The change is by means of an instrument in which the owner is listed as both grantee and grantor, and one or more other individuals who do not apply for a homestead exemption are named as grantee; or
 - The person is a lessee entitled to the homestead exemption.
- The change is between husband and wife, including a change or transfer to a surviving spouse or a transfer due to dissolution of marriage;
- The transfer occurs by intestate inheritance to a surviving spouse or minor children; or
- Upon the death of the owner, the transfer is between the owner and someone who is a permanent resident and who is legally or naturally dependent upon the owner.

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

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

³ *See* s. 192.001(2) and (16), F.S.

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ *See* FLA. CONST. art. VII, s. 4.

⁶ Section 193.155(3)(a), F.S.

Changes, Additions, and Improvements to Real Property

In general, changes, additions, or improvements to real property are assessed at just value as of the first January 1 after they are substantially completed.⁷

However, when property is damaged or destroyed by calamity or misfortune, the property may be repaired or replaced without the change, addition, or improvement being assessed at just value; rather, the change, addition, or improvement is assigned the taxable value and other tax characteristics (i.e. assessment limitation) that the damaged or replaced property had before being damaged or destroyed. This treatment has certain limitations. For instance, the change, addition, or improvement may not exceed 110 percent of the square footage of the property before it was damaged or destroyed.⁸ Any square footage greater than 110 percent of the replaced property is assessed at just value. For residential property, the 110 percent limitation does not apply if the change, addition, or improvement is 1,500 square feet or less.⁹

While the treatment under current law is relatively clear regarding the main structures on property, such as residences and other buildings, the current statutes are less clear with regard to ancillary improvements.¹⁰

III. Effect of Proposed Changes:

With regard to changes of ownership, the bill adds two additional exclusions whereby a change in the ownership of homesteaded property would not result in the property being assessed at just value as of the January 1 following the change in ownership.

Specifically, a change of ownership would not occur when the owner entitled to the homestead exemption is both grantor and grantee, and one or more other individuals who held title as joint tenants with rights of survivorship with the owner are removed from the title.

Additionally, a change of ownership would not occur when:

- Multiple owners hold title as joint tenants with rights of survivorship;
- One or more owners were entitled to and received the homestead exemption on the property;
- The death of one or more owners occurs; and
- Following the transfer, the surviving owner or owners previously entitled to and receiving the homestead exemption continue to be entitled to and receive the homestead exemption.

With regard to property that is damaged or destroyed by calamity or misfortune, the bill clarifies that ancillary improvements¹¹ may also be repaired or replaced without the change, addition, or improvement being assessed at just value.

⁷ Sections 193.155(4)(a), 193.1554(6)(a), and 193.1555(6)(a), F.S.

⁸ Sections 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S.

⁹ Sections 193.155(4)(b), F.S.

¹⁰ See sections 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S.

¹¹ The term “ancillary improvement” is not defined in law, but might be generally understood to include extra features, such as boat docks, that are not attached to a house and not assessed on a square footage basis.

The bill clarifies that the assessment made for repaired or replaced property must be calculated based on the assessed value as of the January 1 immediately before the damage or destruction occurred.

The changes made by the bill regarding property damaged or destroyed by calamity or misfortune are remedial and clarifying and may not affect any assessment for tax rolls before 2021, unless the assessment is under review by a value adjustment board or a Florida court. For property repaired or replaced and not assessed as provided by the bill, a property appraiser must determine the assessment for the year the repaired or replaced property was substantially completed and recalculate the just and assessed value for each subsequent year so that the 2021 tax roll and subsequent rolls are assessed as provided by the bill.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that except upon the approval of each house of the Legislature by a 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 cities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirement does not apply to laws having an insignificant impact,^{12, 13} which for Fiscal Year 2021-2022, is forecast at \$2.2 million.¹⁴

The Revenue Estimating Conference determined the bill will reduce local government property tax revenue by an indeterminate amount. If the reduction exceeds \$2.2 million in the aggregate, the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹² FLA. CONST. art. VII, s. 18(d).

¹³ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 03, 2021).

¹⁴ Based on the Demographic Estimating Conference's April 1, 2021, estimated population adopted on Nov. 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 03, 2021).

D. State Tax or Fee Increases:

This bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

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

The Revenue Estimating Conference determined that the bill will reduce local government revenues by an indeterminate amount beginning in Fiscal Year 2021-2022.

B. Private Sector Impact:

The bill may positively impact property owners by allowing them to maintain their homestead exemption when making certain changes in ownership.

C. Government Sector Impact:

The bill may negatively impact local governments by excluding additional circumstances that would have resulted in a change of ownership subjecting the property to assessment at just value.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 193.155, 193.1554, and 193.1555.

This bill reenacts section 193.1557 of the Florida Statutes.

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

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

CS by Finance and Tax on March 31, 2021:

The amendment makes technical changes to correct cross references and clarifies the application of certain provisions amended by the bill and the effective date.

B. Amendments:

None.

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



977590

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 04/01/2021 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment (with title amendment)

Delete lines 158 - 251

and insert:

assessment limitations in subsections (3) and (4), when:

a. The square footage of the property as changed or improved does not exceed 110 percent of the square footage of the property before the damage or destruction; or

~~b. Additionally, the property's assessed value shall not increase if~~ The total square footage of the property as changed



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11 or improved does not exceed 1,500 square feet. ~~Changes,~~
12 ~~additions, or improvements that do not cause the total to exceed~~
13 ~~110 percent of the total square footage of the property before~~
14 ~~the damage or destruction or that do not cause the total to~~
15 ~~exceed 1,500 total square feet shall be reassessed as provided~~
16 ~~under subsection (3).~~

17 2. The property's assessed value must ~~shall~~ be increased by
18 the just value of that portion of the changed or improved
19 property which is in excess of 110 percent of the square footage
20 of the property before the damage or destruction or of that
21 portion exceeding 1,500 square feet.

22
23 Changes, additions, or improvements assessed pursuant to this
24 paragraph shall be reassessed pursuant to subsection (3) in
25 subsequent years.

26 3. Property damaged or destroyed by misfortune or calamity
27 which, after being changed or improved, has a square footage of
28 less than 100 percent of the property's total square footage
29 before the damage or destruction shall be assessed pursuant to
30 subsection (8).

31 4. This paragraph applies to changes, additions, or
32 improvements commenced within 3 years after the January 1
33 following the damage or destruction of the property.

34 Section 3. Paragraph (b) of subsection (6) of section
35 193.1555, Florida Statutes, is amended to read:

36 193.1555 Assessment of certain residential and
37 nonresidential real property.—

38 (6)

39 (b)1. Changes, additions, or improvements that replace all



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40 or a portion of nonresidential real property, including
41 ancillary improvements, damaged or destroyed by misfortune or
42 calamity must be assessed upon substantial completion as
43 provided in this paragraph. Such assessment must be calculated
44 using ~~shall not increase~~ the nonresidential real property's
45 assessed value as of the January 1 immediately before the date
46 on which the damage or destruction was sustained, subject to the
47 assessment limitations in subsections (3) and (4), when:

48 a. The square footage of the property as changed or
49 improved does not exceed 110 percent of the square footage of
50 the property before the damage or destruction; and

51 b. The changes, additions, or improvements do not change
52 the property's character or use. ~~Changes, additions, or~~
53 ~~improvements that do not cause the total to exceed 110 percent~~
54 ~~of the total square footage of the property before the damage or~~
55 ~~destruction and do not change the property's character or use~~
56 ~~shall be reassessed as provided under subsection (3).~~

57 2. The property's assessed value must ~~shall~~ be increased by
58 the just value of that portion of the changed or improved
59 property which is in excess of 110 percent of the square footage
60 of the property before the damage or destruction.

61
62 Changes, additions, or improvements assessed pursuant to this
63 paragraph must be reassessed pursuant to subsection (3) in
64 subsequent years.

65 3. Property damaged or destroyed by misfortune or calamity
66 which, after being changed or improved, has a square footage of
67 less than 100 percent of the property's total square footage
68 before the damage or destruction shall be assessed pursuant to



69 subsection (8).

70 4. This paragraph applies to changes, additions, or
71 improvements commenced within 3 years after the January 1
72 following the damage or destruction of the property.

73 Section 4. For the purpose of incorporating the amendments
74 made by this act to sections 193.155, 193.1554, and 193.1555,
75 Florida Statutes, in references thereto, section 193.1557,
76 Florida Statutes, is reenacted to read:

77 193.1557 Assessment of certain property damaged or
78 destroyed by Hurricane Michael.—For property damaged or
79 destroyed by Hurricane Michael in 2018, s. 193.155(4)(b), s.
80 193.1554(6)(b), or s. 193.1555(6)(b) applies to changes,
81 additions, or improvements commenced within 5 years after
82 January 1, 2019. This section applies to the 2019–2023 tax rolls
83 and shall stand repealed on December 31, 2023.

84 Section 5. The amendments made by this act to sections
85 193.155(4), 193.1554, and 193.1555, Florida Statutes, are
86 remedial and clarifying in nature, but the amendments may not
87 affect any assessment for tax rolls before 2021 unless the
88 assessment is under review by a value adjustment board or a
89 Florida court as of the effective date of this act. If changes,
90 additions, or improvements that replaced all or a portion of
91 property damaged or destroyed by misfortune or calamity were not
92 assessed in accordance with this act as of the January 1
93 immediately after they were substantially completed, the
94 property appraiser must determine the assessment for the year
95 they were substantially completed and recalculate the just and
96 assessed value for each subsequent year so that the 2021 tax
97 roll and subsequent tax rolls will be corrected.



98 Section 6. This act applies to assessments made on or after

99

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

101 And the title is amended as follows:

102 Delete line 44

103 and insert:

104 thereto; providing construction; requiring the
105 property appraiser to determine assessments for
106 certain changes, additions, or improvements for the
107 year they were substantially completed and recalculate
108 the just and assessed value for subsequent years under
109 certain circumstances; providing applicability;
110 providing an

By Senator Bean

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1 A bill to be entitled
 2 An act relating to ad valorem assessments; amending s.
 3 193.155, F.S.; adding exceptions to the definition of
 4 the term "change of ownership" for purposes of a
 5 certain homestead assessment limitation; providing
 6 that changes, additions, or improvements, including
 7 ancillary improvements, to homestead property damaged
 8 or destroyed by misfortune or calamity must be
 9 assessed upon substantial completion; specifying that
 10 the assessed value of the replaced homestead property
 11 must be calculated using the assessed value of the
 12 homestead property on a certain date before the date
 13 on which the damage or destruction was sustained;
 14 providing that certain changes, additions, or
 15 improvements must be reassessed at just value in
 16 subsequent years; amending s. 193.1554, F.S.;
 17 providing that changes, additions, or improvements,
 18 including ancillary improvements, to nonhomestead
 19 residential property damaged or destroyed by
 20 misfortune or calamity must be assessed upon
 21 substantial completion; specifying that the assessed
 22 value of the replaced nonhomestead residential
 23 property must be calculated using the assessed value
 24 of the nonhomestead residential property on a certain
 25 date before the date on which the damage or
 26 destruction was sustained; providing that certain
 27 changes, additions, or improvements must be reassessed
 28 at just value in subsequent years; amending s.
 29 193.1555, F.S.; providing that changes, additions, or

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30 improvements, including ancillary improvements, to
 31 certain nonresidential real property damaged or
 32 destroyed by misfortune or calamity must be assessed
 33 upon substantial completion; specifying that the
 34 assessed value of the replaced nonresidential real
 35 property shall be calculated using the assessed value
 36 of the residential and nonresidential real property on
 37 a certain date before the date on which the damage or
 38 destruction was sustained; providing that certain
 39 changes, additions, or improvements must be reassessed
 40 at just value in subsequent years; reenacting s.
 41 193.1557, F.S., relating to assessment of property
 42 damaged or destroyed by Hurricane Michael, to
 43 incorporate amendments made by this act in references
 44 thereto; providing applicability; providing an
 45 effective date.

46
 47 Be It Enacted by the Legislature of the State of Florida:

48
 49 Section 1. Paragraph (a) of subsection (3) and paragraph
 50 (b) of subsection (4) of section 193.155, Florida Statutes, are
 51 amended to read:

52 193.155 Homestead assessments.—Homestead property shall be
 53 assessed at just value as of January 1, 1994. Property receiving
 54 the homestead exemption after January 1, 1994, shall be assessed
 55 at just value as of January 1 of the year in which the property
 56 receives the exemption unless the provisions of subsection (8)
 57 apply.

58 (3) (a) Except as provided in this subsection or subsection

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59 (8), property assessed under this section shall be assessed at
 60 just value as of January 1 of the year following a change of
 61 ownership. Thereafter, the annual changes in the assessed value
 62 of the property are subject to the limitations in subsections
 63 (1) and (2). For the purpose of this section, a change of
 64 ownership means any sale, foreclosure, or transfer of legal
 65 title or beneficial title in equity to any person, except if any
 66 of the following apply:

67 1. Subsequent to the change or transfer, the same person is
 68 entitled to the homestead exemption as was previously entitled
 69 and:

70 a. The transfer of title is to correct an error;

71 b. The transfer is between legal and equitable title or
 72 equitable and equitable title and no additional person applies
 73 for a homestead exemption on the property;

74 c. The change or transfer is by means of an instrument in
 75 which the owner is listed as both grantor and grantee of the
 76 real property and one or more other individuals are additionally
 77 named as grantee. However, if any individual who is additionally
 78 named as a grantee applies for a homestead exemption on the
 79 property, the application is considered a change of ownership;

80 ~~or~~

81 d. The change or transfer is by means of an instrument in
 82 which the owner entitled to the homestead exemption is listed as
 83 both grantor and grantee of the real property and one or more
 84 other individuals, all of whom held title as joint tenants with
 85 rights of survivorship with the owner, are named only as
 86 grantors and are removed from the title; or

87 e. The person is a lessee entitled to the homestead

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88 exemption under s. 196.041(1).

89 2. Legal or equitable title is changed or transferred
 90 between husband and wife, including a change or transfer to a
 91 surviving spouse or a transfer due to a dissolution of marriage;

92 3. The transfer occurs by operation of law to the surviving
 93 spouse or minor child or children under s. 732.401; ~~or~~

94 4. Upon the death of the owner, the transfer is between the
 95 owner and another who is a permanent resident and who is legally
 96 or naturally dependent upon the owner; or

97 5. The transfer occurs with respect to a property where all
 98 of the following apply:

99 a. Multiple owners hold title as joint tenants with rights
 100 of survivorship;

101 b. One or more owners were entitled to and received the
 102 homestead exemption on the property;

103 c. The death of one or more owners occurs; and

104 d. Subsequent to the transfer, the surviving owner or
 105 owners previously entitled to and receiving the homestead
 106 exemption continue to be entitled to and receive the homestead
 107 exemption.

108 (4)

109 (b) 1. Changes, additions, or improvements that replace all
 110 or a portion of homestead property, including ancillary
 111 improvements, damaged or destroyed by misfortune or calamity
 112 shall be assessed upon substantial completion as provided in
 113 this paragraph. Such assessment must be calculated using ~~shall~~
 114 ~~not increase~~ the homestead property's assessed value as of the
 115 January 1 immediately before the date on which the damage or
 116 destruction was sustained, subject to the assessment limitations

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117 in subsections (1) and (2), when:

118 a. The square footage of the homestead property as changed
119 or improved does not exceed 110 percent of the square footage of
120 the homestead property before the damage or destruction; ~~or-~~

121 ~~b. Additionally, the homestead property's assessed value~~
122 ~~shall not increase if~~ The total square footage of the homestead
123 property as changed or improved does not exceed 1,500 square
124 feet. ~~Changes, additions, or improvements that do not cause the~~
125 ~~total to exceed 110 percent of the total square footage of the~~
126 ~~homestead property before the damage or destruction or that do~~
127 ~~not cause the total to exceed 1,500 total square feet shall be~~
128 ~~reassessed as provided under subsection (1).~~

129 2. The homestead property's assessed value must ~~shall~~ be
130 increased by the just value of that portion of the changed or
131 improved homestead property which is in excess of 110 percent of
132 the square footage of the homestead property before the damage
133 or destruction or of that portion exceeding 1,500 square feet.

134 Changes, additions, or improvements assessed pursuant to this
135 paragraph must be reassessed pursuant to subsection (1) in
136 subsequent years.

137 3. Homestead property damaged or destroyed by misfortune or
138 calamity which, after being changed or improved, has a square
139 footage of less than 100 percent of the homestead property's
140 total square footage before the damage or destruction shall be
141 assessed pursuant to subsection (5).

142 4. This paragraph applies to changes, additions, or
143 improvements commenced within 3 years after the January 1
144 following the damage or destruction of the homestead.
145

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146 Section 2. Paragraph (b) of subsection (6) of section
147 193.1554, Florida Statutes, is amended to read:

148 193.1554 Assessment of nonhomestead residential property.-
149 (6)

150 (b) 1. Changes, additions, or improvements that replace all
151 or a portion of nonhomestead residential property, including
152 ancillary improvements, damaged or destroyed by misfortune or
153 calamity must be assessed upon substantial completion as
154 provided in this paragraph. Such assessment must be calculated
155 using shall not increase the nonhomestead property's assessed
156 value as of the January 1 immediately before the date on which
157 the damage or destruction was sustained, subject to the
158 assessment limitations in subsections (1) and (2), when:

159 a. The square footage of the property as changed or
160 improved does not exceed 110 percent of the square footage of
161 the property before the damage or destruction; ~~or-~~

162 ~~b. Additionally, the property's assessed value shall not~~
163 ~~increase if~~ The total square footage of the property as changed
164 or improved does not exceed 1,500 square feet. ~~Changes,~~
165 ~~additions, or improvements that do not cause the total to exceed~~
166 ~~110 percent of the total square footage of the property before~~
167 ~~the damage or destruction or that do not cause the total to~~
168 ~~exceed 1,500 total square feet shall be reassessed as provided~~
169 ~~under subsection (3).~~

170 2. The property's assessed value must ~~shall~~ be increased by
171 the just value of that portion of the changed or improved
172 property which is in excess of 110 percent of the square footage
173 of the property before the damage or destruction or of that
174 portion exceeding 1,500 square feet.

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175
176 Changes, additions, or improvements assessed pursuant to this
177 paragraph shall be reassessed pursuant to subsection (3) in
178 subsequent years.

179 3. Property damaged or destroyed by misfortune or calamity
180 which, after being changed or improved, has a square footage of
181 less than 100 percent of the property's total square footage
182 before the damage or destruction shall be assessed pursuant to
183 subsection (8).

184 4. This paragraph applies to changes, additions, or
185 improvements commenced within 3 years after the January 1
186 following the damage or destruction of the property.

187 Section 3. Paragraph (b) of subsection (6) of section
188 193.1555, Florida Statutes, is amended to read:

189 193.1555 Assessment of certain residential and
190 nonresidential real property.—

191 (6)

192 (b)1. Changes, additions, or improvements that replace all
193 or a portion of nonresidential real property, including
194 ancillary improvements, damaged or destroyed by misfortune or
195 calamity must be assessed upon substantial completion as
196 provided in this paragraph. Such assessment must be calculated
197 using ~~shall not increase~~ the nonresidential real property's
198 assessed value as of the January 1 immediately before the date
199 on which the damage or destruction was sustained, subject to the
200 assessment limitations in subsections (1) and (2), when:

201 a. The square footage of the property as changed or
202 improved does not exceed 110 percent of the square footage of
203 the property before the damage or destruction; and

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204 b. The changes, additions, or improvements do not change
205 the property's character or use. ~~Changes, additions, or~~
206 ~~improvements that do not cause the total to exceed 110 percent~~
207 ~~of the total square footage of the property before the damage or~~
208 ~~destruction and do not change the property's character or use~~
209 ~~shall be reassessed as provided under subsection (3).~~

210 2. The property's assessed value ~~must~~ shall be increased by
211 the just value of that portion of the changed or improved
212 property which is in excess of 110 percent of the square footage
213 of the property before the damage or destruction.

214

215 Changes, additions, or improvements assessed pursuant to this
216 paragraph must be reassessed pursuant to subsection (3) in
217 subsequent years.

218 3. Property damaged or destroyed by misfortune or calamity
219 which, after being changed or improved, has a square footage of
220 less than 100 percent of the property's total square footage
221 before the damage or destruction shall be assessed pursuant to
222 subsection (8).

223 4. This paragraph applies to changes, additions, or
224 improvements commenced within 3 years after the January 1
225 following the damage or destruction of the property.

226 Section 4. For the purpose of incorporating the amendments
227 made by this act to sections 193.155, 193.1554, and 193.1555,
228 Florida Statutes, in references thereto, section 193.1557,
229 Florida Statutes, is reenacted to read:

230 193.1557 Assessment of certain property damaged or
231 destroyed by Hurricane Michael.—For property damaged or
232 destroyed by Hurricane Michael in 2018, s. 193.155(4)(b), s.

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233 193.1554(6)(b), or s. 193.1555(6)(b) applies to changes,
234 additions, or improvements commenced within 5 years after
235 January 1, 2019. This section applies to the 2019-2023 tax rolls
236 and shall stand repealed on December 31, 2023.

237 Section 5. The amendments made by this act to sections
238 193.155, 193.1554, and 193.1555, Florida Statutes, are remedial
239 and clarifying in nature, but the amendments may not affect any
240 assessment for tax rolls before 2021 unless the assessment is
241 under review by a value adjustment board or a Florida court as
242 of the effective date of this act. If changes, additions, or
243 improvements that replaced all or a portion of property damaged
244 or destroyed by misfortune or calamity were not assessed in
245 accordance with this act as of the January 1 immediately after
246 they were substantially completed, the property appraiser must
247 determine the assessment for the year they were substantially
248 completed and recalculate the just and assessed value for each
249 subsequent year so that the 2021 tax roll and subsequent tax
250 rolls will be corrected.

251 Section 6. This act applies to assessments made as of
252 January 1, 2021.

253 Section 7. This act shall take effect July 1, 2021.



The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: March 23, 2021

I respectfully request that **Senate Bill #1254**, relating to Ad Valorem Assessments, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/31/21

Meeting Date

1254

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Loren Levy

Job Title General Counsel, Property Appraisers' Assoc of Fla.

Address 1828 Riggins Rd Phone 850-219-0220

Street

Tallahassee FL 32308

City

State

Zip

Email llevy@levylaw.com

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1444

INTRODUCER: Senator Wright

SUBJECT: Florida Small Manufacturing Business Recovery Act

DATE: March 30, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|----------------|-----------|--------------------|
| 1. | <u>Reeve</u> | <u>McKay</u> | <u>CM</u> | Favorable |
| 2. | <u>Kim</u> | <u>Babin</u> | <u>FT</u> | Pre-meeting |
| 3. | _____ | _____ | <u>AP</u> | _____ |

I. Summary:

SB 1444 creates s. 288.715, F.S., the Florida Small Manufacturing Business Recovery Act. The bill allows investors to earn credits against the insurance premium tax and retaliatory tax equal to their investment in certified relief funds; in turn, the relief funds will invest in certain businesses. The bill caps investment at a level that will result in no more than \$80 million in tax credits under the program.

The Department of Economic Opportunity (DEO) will administer the program by certifying relief funds, granting tax credits to investors, and, if necessary, revoking a relief fund's tax credit authority.

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$16 million beginning in Fiscal Year 2023-2024, and by \$16 million each fiscal year thereafter.

The bill takes effect July 1, 2021.

II. Present Situation:

Economic Development Incentives that use Tax Credits

Capital Investment Tax Credit

The Capital Investment Tax Credit was created to attract and grow capital-intensive industries in the state by offering an annual tax credit equal to 5 percent of the eligible capital costs generated by a qualifying project. The tax credit offered may only be used against the corporate income tax or insurance premium tax liability generated by or arising out of a qualifying project.¹ Qualifying

¹ Section 220.191, F.S.

projects are in high-impact portions of the clean energy, life sciences, financial services, information technology, semi-conductor, transportation equipment manufacturing, advanced manufacturing, or corporate headquarters facility industries. In calendar year 2019, the DEO approved over \$67 million in capital investment tax credits.²

Rural Job Tax Credit Program

The Florida Rural Job Tax Credit Program offers a tax credit incentive for eligible businesses that are located within a designated qualified rural area to create new jobs.³ The tax credit ranges from \$1,000 to \$1,500 per qualified employee and can be taken against either the businesses' corporate income tax or sales and use tax liabilities. A business is limited to no more than \$500,000 of tax credits per year.⁴ The DEO administers this program and may approve up to \$5 million in tax credits per year. In calendar year 2019, the DEO approved \$100,000 in rural job tax credits.⁵

Florida New Markets Development Program⁶

The Florida New Markets Development Program (NMDP), similar to the program created in this bill, uses tax credits to spur economic development. The NMDP allows Florida taxpayers to earn tax credits against corporate income tax or insurance premium tax liability by investing in qualified community development entities (CDEs) that make investments in qualified low-income community businesses. CDEs are domestic corporations or partnerships that have a primary role in administering the tax credit program and act as intermediaries between the investors, financiers, and low-income community businesses. The NMDP is modeled after the federal New Markets Tax Credit program.⁷ The NMDP is capped at a cumulative investment that would result in no more than \$216.34 million in tax credits, and an annual investment that would result in no more than \$36.6 million in a single fiscal year.⁸ The NMDP has exhausted its credit allocation. It has not issued tax credits since Fiscal Year 2014-2015.⁹

Examples of Acts in Other States

In 2017, Georgia created the Georgia Agribusiness and Rural Jobs Act, which is designed to spur \$100 million in capital investments in rural businesses in the state. Investors may redeem up to \$15 million in tax credits annually for four years (for a total of \$60 million tax credits) against their corporate income tax and premium tax liabilities.¹⁰ While Georgia's tax credit program incentivizes investment in rural businesses instead of manufacturing businesses, the program's

² Department of Economic Opportunity, *2019-2020 Incentives Report*, 49, available at https://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2 (last visited Mar. 24, 2021).

³ Sections 212.098 and 220.1895, F.S.

⁴ Section 212.098(6)(d), F.S.

⁵ *Supra* note 2.

⁶ Sections 288.991-.9922, F.S.

⁷ Office of Economic and Demographic Research, *Economic Evaluation for Select State Economic Development Incentive Programs*, 33-37 (Jan. 2020), available at <http://www.edr.state.fl.us/Content/returnoninvestment/ROISELECTPROGRAMS2020final.pdf> (last visited Mar. 24, 2021).

⁸ Section 288.9914(3)(c), F.S.

⁹ Florida Dep't of Economic Opportunity, *2017 Incentives Report*, 11, available at <http://www.floridajobs.org/docs/default-source/reports-and-legislation/2017-annual-incentives-report.pdf?sfvrsn=4> (last visited Mar. 24, 2021).

¹⁰ Ga. Code Annotated s. 33-1-25, *et seq.* (2017).

structure is similar to that of the proposed bill. Similar legislation directed towards other industries has been proposed in several other states, including Kentucky¹¹ and Washington.¹²

Additionally, the federal New Markets Tax Credit Program is structurally similar to the program created by the bill. The federal program, which offers investors a credit against the federal income tax in exchange for making equity investments in Community Development Entities (CDEs), was extended through 2025 with a \$5 billion annual appropriation under the federal Consolidated Appropriations Act, 2021.¹³ Several CDEs are actively financing businesses in Florida under the federal program.¹⁴

Insurance Premium Tax and Retaliatory Tax

Florida imposes on insurers a tax on insurance premiums. For the tax imposed by s. 624.509, F.S., tax is due on:

- Insurance premiums;
- Premiums for title insurance;
- Assessments, including membership fees and policy fees and gross deposits received from subscribers to reciprocal or interinsurance agreements; and
- Annuity premiums or considerations.

The general tax rate is 1.75 percent of gross receipts on account of life and health insurance policies covering Florida residents and on account of all other types of policies and contracts covering property, subjects, or risks located, resident, or to be performed in Florida, minus reinsurance and return premiums.¹⁵ Annuity policies or contracts held in Florida are taxed at 1 percent of gross receipts, and direct written premiums for bail bonds are taxed at 1.75 percent, excluding any amounts retained by licensed bail bond agents or appointed managing general agents.¹⁶ The insurance premium tax is collected by the Department of Revenue (DOR) and distributed to the General Revenue Fund.¹⁷

Florida imposes a retaliatory tax on foreign or alien insurers if the other state or country where the insurer is domiciled imposes a greater tax burden on Florida insurers, or their agents or representatives, in excess of what the state or country imposes on such entities that are domiciled in that state or country.¹⁸ The retaliatory tax is calculated by first calculating the foreign or alien insurer's Florida premium tax liability, and then calculating the insurer's liability as if its Florida premiums were written in the jurisdiction where it is domiciled and its Florida employees and

¹¹ Kentucky House Bill 203 (2019), <https://apps.legislature.ky.gov/record/19rs/hb203.html> (last visited Mar. 24, 2021).

¹² Doug Farquhar, *Jump-Starting Rural Economies* (Apr. 2018), available at <http://www.ncsl.org/research/environment-and-natural-resources/jump-starting-rural-economies.aspx> (last visited Mar. 24, 2021).

¹³ Consolidated Appropriations Act, H.R. 133, 116th Cong., s. 112, (2020).

¹⁴ United States Department of the Treasury, *New Markets Tax Credit Qualified Equity Investment Report (March 2021)*, available at <https://www.cdfifund.gov/sites/cdfi/files/2021-03/NMTC%20QEI%20Issuance%20Report-March%202021.pdf> (last visited Mar. 24, 2021).

¹⁵ Section 624.509(1), F.S.

¹⁶ *Id.*

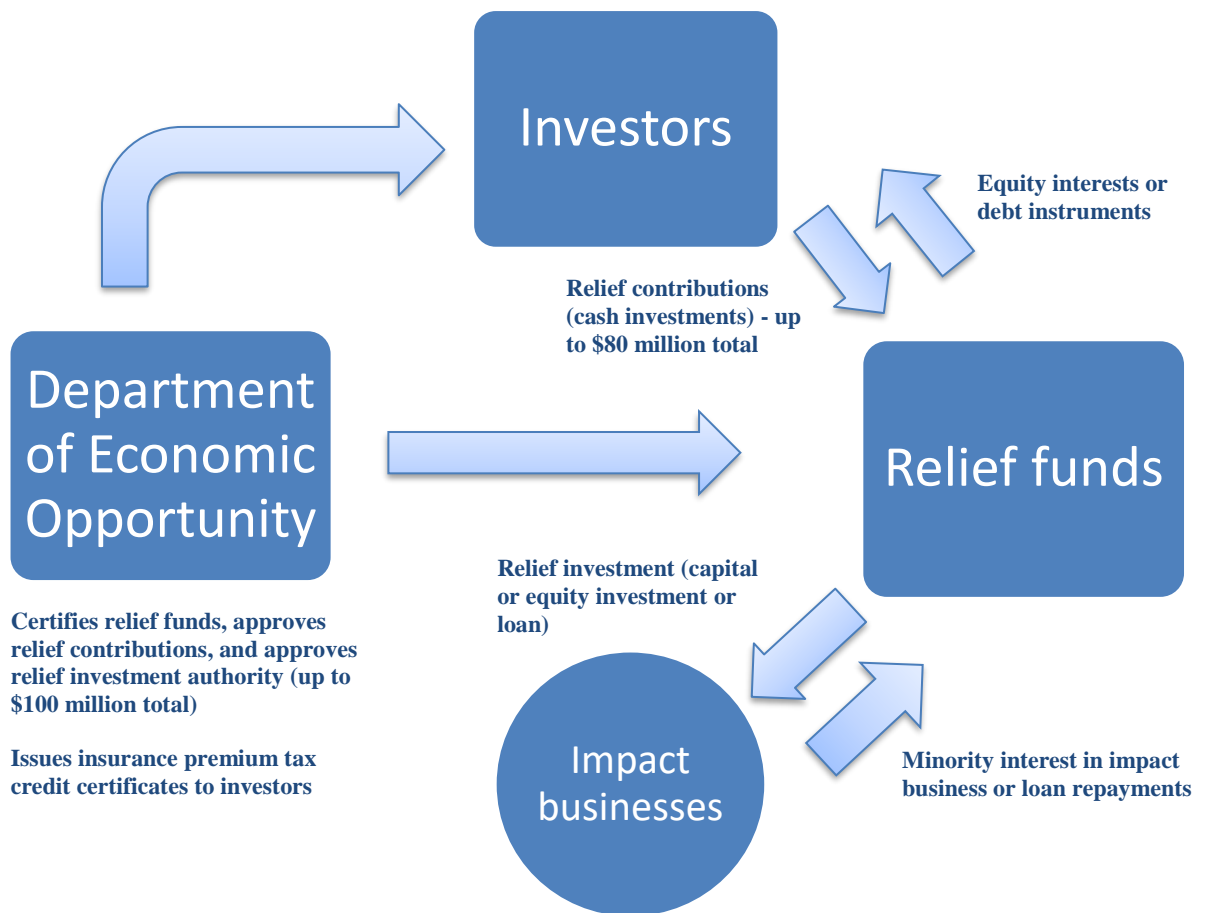
¹⁷ Section 624.509(3), F.S.

¹⁸ *See* s. 624.5091, F.S.

property were located in that jurisdiction.¹⁹ After adjusting both calculations for various credits, other taxes, and fees, the retaliatory tax due, if any, is equal to the amount that taxes imposed by other jurisdiction exceed those imposed under Florida law.²⁰ Retaliatory taxes are collected by the DOR and deposited into the Insurance Regulatory Trust Fund up to an annually adjusted amount, with the remainder deposited into the General Revenue Fund.²¹

III. Effect of Proposed Changes:

The bill creates s. 288.715, F.S., the Florida Small Manufacturing Business Recovery Act, to be administered by the DEO. The bill uses tax credits against the state insurance premium tax and retaliatory tax to incentivize certain investors to make cash investments, known as “relief contributions,” to certified relief funds that, in turn, will make capital or equity investments in, or loans with a maturity date of at least 2 years to, an impact business. The total relief investment authority is capped at \$100 million and relief contributions are capped at \$80 million. The following provides a simplified overview:



¹⁹ Senate Committee on Finance and Tax, *An Overview of Florida’s Insurance Premium Tax*, Report Number 2007-122, 7, October 2006, available at http://archive.flsenate.gov/data/publications/2007/senate/reports/interim_reports/pdf/2007-122ftlong.pdf (last visited March 24, 2021).

²⁰ *Id.*

²¹ Section 624.5091(5), F.S.

An impact business is one that, at the time of the initial investment by the relief fund:

- Has fewer than 200 employees;
- Has its principal business operations in Florida. A business has its principal business operations in the state if at least 60 percent of the business's employees are Florida residents, at least 80 percent of the business's payroll is paid to Florida residents, or the business has agreed to use the proceeds of a relief investment to relocate at least 60 percent of the business's employees to Florida or pay at least 80 percent of the business's payroll to Florida residents; and
- Is engaged in manufacturing under North American Industry Classification System code 31-33. A business not engaged in manufacturing is considered an impact business under the bill if the DEO has determined that an investment in such a business will benefit the state's recovery.

Tax Credit Application, Approval, and Allocation

Beginning August 1, 2021, the DEO must accept applications for certification of relief funds and relief contributions. Applications must include:

- The total relief investment authority²² sought by the applicant, 80 percent of which must consist of relief contributions;
- Evidence that an applicant or an affiliate of the applicant is licensed as a rural business investment company or small business investment company;²³
- Evidence that at least one principal of the rural or small business investment company is, and has been for at least 4 years, an officer, employee, or affiliate of the applicant on the date the application is submitted;
- Evidence that the applicant and its affiliates have invested more than \$500 million in small businesses, regardless of whether the principal businesses operations of the small business are in the state; and
- A signed affidavit from each investor stating that the investor agrees to make a relief contribution,²⁴ and the amount of the relief contribution.

The DEO must approve or deny an application within 30 days of its receipt. The DEO must deny an application if:

- The application is incomplete, including failing to submit the affidavits accounting for at least 80 percent of the relief investment authority sought;
- The application does not include evidence proving the relief fund is eligible for certification; or
- The DEO has already approved the maximum total relief investment authority and relief contributions.

The total relief investment authority is capped at \$100 million and relief contributions are capped at \$80 million.

²² "Relief investment authority" means the amount stated on the notice certifying a relief fund issued by the DEO.

²³ See 7 U.S.C. s. 2009cc and 15 U.S.C. s. 681.

²⁴ "Relief contribution" means a cash investment in a relief fund which equals the amount specified on a notice of tax credit allocation issued by the DEO after certification. The investments must purchase an equity interest in the relief fund or a debt instrument issued by the relief fund.

The DEO must issue a written notice to an approved applicant certifying the applicant as a relief fund and specifying the applicant's amount of relief investment authority. If the DEO denies an application for any reason other than the aforementioned reasons, the DEO must notify the applicant and allow the applicant to cure defects in the application within 15 days of receipt of the notice of denial.

The DEO may not reduce a relief fund's requested relief investment authority unless such an allocation would cause the DEO to exceed the relief investment authority and relief contribution limits. If the DEO approves applications received on the same day with relief investment authority and relief contribution amounts that would collectively exceed the limits specified by the bill, the DEO must approve both applicants but proportionally reduce the authority and contribution for each approved application as necessary to avoid exceeding the limit.

Additionally, the DEO may not approve any applications submitted after a denied application until the previously denied application has been cured and reconsidered if the approval of the subsequent application would result in exceeding the dollar limitations on relief investment authority or relief contributions.

Within 30 days after certification, a relief fund must collect the relief contributions from each investor whose affidavit was included in the application, and collect direct or indirect equity investments from affiliates of the fund equal to at least 10 percent of the relief fund's investment authority. A relief fund must send to the DEO proof of collecting such contributions and investments within 35 days of certification. If a relief fund fails to send such documentation, the DEO must revoke the fund's certification.

Upon a relief fund's satisfaction of the aforementioned collection and documentation requirements, the DEO must issue a notice of the amount and utilization schedule of the tax credit certificates allocated to each investor or affiliate as a result of their relief contributions. Only the first \$3.5 million of a relief fund's investment in any one impact business may be considered a relief investment; a relief investment in an affiliate of an impact business is considered a relief investment in that impact business.

Tax Credits

An investor that made a relief contribution is issued a nonrefundable tax credit certificate against the insurance premium tax under s. 624.509, F.S., and the retaliatory tax under s. 624.5091, F.S., which is transferable to any person that pays premium taxes in the state.

On the closing date,²⁵ a taxpayer that made a relief contribution is eligible for a tax credit equal to the amount specified in the notice sent by the DEO. The DEO will issue investors a tax credit certificate for one-fifth of the relief contributions on the anniversary of the relief fund's closing date every year for 5 years, beginning in 2023. If the tax credit received in one year exceeds the taxes owed for that year, the unused credits may be carried forward indefinitely; a retaliatory tax

²⁵ The closing date is the date on which a relief fund has collected the relief funds from each investor whose affidavit was included in the fund's application and the direct or indirect equity investments from affiliates of the relief fund.

may not be required for using the tax credit. Anyone receiving a tax credit must include a copy of the tax credit certificate when submitting an annual statement for each year the credit is claimed.

Revocation of Tax Credit Certificates and Exit from the Program

The DEO is not required to issue a tax credit to a relief fund that does not invest at least 70 percent of its relief investment authority in relief investments within 1 year of the closing date or 100 percent of its authority within 2 years of the closing date. A relief investment is any capital or equity investment²⁶ in or loan²⁷ to an impact business with a maturity of at least 2 years after the date of issuance.

The DEO may revoke a relief fund's tax credit certificate if the relief fund:

- Makes a distribution in excess of the cumulative investment earnings of the relief fund, taking into account all past distributions, before satisfying the investment level requirements listed above;
- Fails to maintain the required investment levels through the fifth anniversary of the closing date;²⁸ or
- Makes a distribution that results in the fund having less than 100 percent of its authority invested in other relief investments or held in cash or marketable securities available for relief investments, after satisfying the original investment level requirements but before decertification of the relief fund.

The DEO must notify a relief fund of the reasons for revocation before revoking the tax credit certificate, and the DEO may not revoke a certificate if a relief fund corrects the reasons for revocation within 30 days of receiving notice.

A relief fund that has invested all of its relief investment authority in relief investments may apply to the DEO to be decertified on or after the sixth anniversary of the fund's closing date. The DEO must respond and not unreasonably deny an application for decertification within 60 days of receipt; the fact that no tax credit certificates have been revoked with respect to the relief fund is evidence to prove that the relief fund is eligible for decertification. The DEO must send notice of its decision to approve or deny an application for decertification, including, if necessary, any reasons for denial.

The DEO may not revoke a tax credit certificate in response to any action a relief fund takes after decertification. However, a decertified relief fund's tax credit certificate may be revoked as a result of actions taken while a fund was certified, even if the actions are discovered after the fund has been decertified.

²⁶ An equity investment is a relief investment only if the relief fund does not acquire a majority interest in the small business as a result of the investment.

²⁷ A secured loan is a relief investment only if it has an initial interest rate of less than 2 percent or principal and interest payments deferred for at least 1 year. Subordinate loans must have an initial interest rate of 6 percent and interest payments deferred for at least 1 year.

²⁸ An investment that is sold or repaid is considered to be maintained if the relief fund reinvests an amount equal to the repaid or sold investment into other relief investments in Florida within 1 year of receipt of such funds.

The relief investment authority and relief contributions of a relief fund whose tax credit certificate has been revoked do not count towards the \$100 million limit and \$80 million limit on relief investment authorities and relief contributions, respectively, that the DEO is authorized to approve. Relief investment authority and relief contribution amounts from such a fund will be awarded pro rata to relief funds whose investment relief authorities were reduced in order to not exceed the total relief investment authority the DEO may approve. Relief investment authority remaining may be awarded to new applicants.

Reporting Requirements

Each relief fund must submit a report to the DEO on or before April 1 of each year, including the closing date year, until the calendar year after the relief fund is decertified. In addition to an itemization of the relief fund's investments, reports must also include:

- A bank statement evidencing each relief investment;
- The name, location, and industry class of each impact business that received a relief investment and evidence that the business qualified as an impact business at the time of the investment;
- The jobs created and retained as a result of each relief investment; and
- Any other information required by the DEO.

Relief funds must also submit a report to the DEO on or before the fifth business day after the first and second anniversaries of the closing date that provides documentation proving that the relief fund has met the investment thresholds required and has not violated any other revocation provisions.

Miscellaneous

A relief fund may request the DEO to issue a written opinion advising whether a business qualifies as an impact business; if the DEO does not respond within 10 days, the business is deemed an impact business or small business.

The bill grants the DEO rulemaking authority to implement the program.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provisions of Art. VII, s. 18 of the State Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$16 million beginning in Fiscal Year 2023-2024, and by \$16 million each fiscal year thereafter.²⁹

B. Private Sector Impact:

Businesses that qualify as impact businesses under the bill could obtain equity or debt financing under the act. The bill provides investment opportunities for rural business investment companies and small business investment companies. Insurers may reduce their insurance premium tax or retaliatory tax liability by making relief contributions or using credits transferred to them by investors or affiliates.

C. Government Sector Impact:

The DEO may incur administrative costs to implement and operate the program.

The DOR estimates it requires a \$50,116 appropriation in Fiscal Year 2023-2024 to implement the bill.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

- The DOR noted the following issues:³¹

²⁹ Office of Economic and Demographic Research, The Florida Legislature, *SB 1444 & HB 1161* (March 19, 2021), available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2021/_pdf/page211-213.pdf (last visited March 25, 2021). See 212 for assumptions for this estimate.

³⁰ Florida Dep't of Revenue, *Senate Bill 1444 Analysis* (March 15, 2021) (on file with the Senate Committee on Finance and Tax).

³¹ *Id.*

- The bill does not require the DEO to notify the DOR of the name of each entity that is “allocated” tax credits, and the amount of the tax credits allocated. It does not require the DEO to notify the DOR when credits are subsequently revoked or lapsed.
 - The DOR will need the name of the entity certified to claim the credit, the amount of the credit certified, federal identification number (FEIN) and the closing date in order to process the credit correctly and ensure the proper entity receives the credit. Since the credits may be transferred from investors and affiliates to insurers and the carryover of unused credits is indefinite, this information is needed to verify credits. The sponsor may wish to consider having the transfer take place prior to the issuance of the tax credit certificates.
 - “Premium taxes” is defined on lines 84 and 85 as any insurance premium tax liability or any retaliatory tax liability. It is unclear if a taxpayer must choose between the two, whether the tax credit certificates will distinguish which tax they are available for, or whether a taxpayer can break the credit up and annually split its credit amount between both taxes. It may be easier for a taxpayer to make an election when applying for the credit so DEO can indicate on the certificate the tax to which the certificate is applicable.
 - It is not clear if a taxpayer is eligible for the entire eligible credit amount in the initial year or one-fifth of the credit amount. See lines 231 through 238.
- Lines 231-232 provide that “a taxpayer that made a relief contribution” is eligible for the credit equal to the amount specified in the DEO notice, and lines 233-237 require the DEO to issue certificates for 5 years equal to one-fifth of the relief contributions allocated to the taxpayer. It appears that a taxpayer that did not make a relief contribution but was transferred the credit by an investor or affiliate is not subject to this provision and may use the entire credit amount in the initial year, but the sponsor may wish to specify.

VIII. Statutes Affected:

This bill creates section 288.715 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.



LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: TP | . | |
| 03/31/2021 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment

Delete lines 198 - 225
and insert:
whose affidavit was included in the application;

2. Collect direct or indirect equity investments from affiliates of the relief fund, including employees, officers, and directors of such affiliates, equal to at least 10 percent of the relief fund's investment authority; and

3. For each investor seeking a tax credit certificate,



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11 provide the department with the investor's federal employer
12 identification number, if a business, or the investor's social
13 security number, if an individual.

14 (g) Within 35 days after receiving certification under
15 paragraph (e), a relief fund must send documentation to the
16 department which proves the relief fund has collected the
17 amounts required under paragraph (f). If the relief fund fails
18 to comply with this paragraph, the department shall revoke the
19 relief fund's certification.

20 (h) After a relief fund satisfies the requirement under
21 paragraph (g), the department shall issue to each investor or
22 affiliate identified under paragraph (g) a notice of the amount
23 and utilization schedule of the tax credit certificates
24 allocated to the investor or affiliate as a result of the
25 investor or affiliate's relief contribution. The department
26 shall provide the Department of Revenue, for each person who is
27 allocated tax credit certificates, the person's name, the amount
28 of the credit allocation, the utilization schedule, the
29 information required by subparagraph (f)3., and the closing date
30 of the relief fund to which the person made a relief
31 contribution.

32 (i) If a relief fund's certification is revoked under
33 paragraph (g) or the relief fund has tax credits revoked under
34 paragraph (5) (b), the corresponding relief investment authority
35 and relief contributions do not count toward limits on total
36 relief investment authority and relief contributions authorized
37 under paragraph (b). The department shall first award lapsed or
38 revoked relief investment authority and the corresponding relief
39 contributions pro rata to each relief fund awarded less than the



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40 relief investment authority for which it applied pursuant to
41 subparagraph (b)1. The department may award any remaining relief
42 investment authority to new applicants. The department shall
43 notify the Department of Revenue of lapsed or revoked relief
44 investment authority.

By Senator Wright

14-01583-21

20211444__

1 A bill to be entitled
 2 An act relating to the Florida Small Manufacturing
 3 Business Recovery Act; creating s. 288.715, F.S.;
 4 providing a short title; defining terms; requiring the
 5 Department of Economic Opportunity to accept
 6 applications for certification of relief funds and
 7 relief contributions in a specified manner; specifying
 8 information required to be submitted in an
 9 application; requiring the department to approve or
 10 deny applications within a specified timeframe;
 11 prohibiting the department from approving more than a
 12 specified amount of relief investment authority and
 13 relief contributions; requiring the department to deny
 14 applications under certain circumstances; requiring
 15 the department to provide notice of approval or denial
 16 to applicants; requiring the department to certify
 17 approved applications; authorizing applicants whose
 18 applications were denied to provide additional
 19 information within a certain timeframe to cure defects
 20 in their applications; requiring the department to
 21 reconsider such applications; requiring certified
 22 relief funds to collect contributions and investments
 23 and submit certain documentation within a specified
 24 timeframe; requiring the department to revoke relief
 25 funds' certification under certain circumstances;
 26 requiring the department to give notice relating to
 27 tax credit certificates; providing requirements
 28 relating to lapsed or revoked investment authority;
 29 authorizing nonrefundable tax credits for owners of

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30 tax credit certificates issued by the department;
 31 providing restrictions on the credit; requiring
 32 taxpayers to submit a copy of the tax credit
 33 certificate with the taxpayers' annual statements;
 34 authorizing the department to revoke tax credit
 35 certificates under certain circumstances; prohibiting
 36 certain amounts invested in impact businesses from
 37 being counted as a relief investment; authorizing
 38 certain relief funds to apply to the department to be
 39 decertified; providing procedures for decertification;
 40 authorizing a relief fund to request certain opinions
 41 from the department; requiring relief funds to submit
 42 specified reports to the department; authorizing the
 43 department to adopt rules; providing an effective
 44 date.
 45
 46 Be It Enacted by the Legislature of the State of Florida:
 47
 48 Section 1. Section 288.715, Florida Statutes, is created to
 49 read:
 50 288.715 The Florida Small Manufacturing Business Recovery
 51 Act.—
 52 (1) This section may be cited as the "Florida Small
 53 Manufacturing Business Recovery Act."
 54 (2) As used in this section, the term:
 55 (a) "Affiliate" means a person that directly, or indirectly
 56 through one or more intermediaries, controls, is controlled by,
 57 or is under common control with another person. For the purposes
 58 of this paragraph, a person is "controlled by" another person if

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59 the controlling person holds, directly or indirectly, the
 60 majority voting or ownership interest in the controlled person
 61 or has control over the day-to-day operations of the controlled
 62 person by contract or by law.

63 (b) "Closing date" means the date on which a relief fund
 64 has collected the amounts specified in paragraph (3) (f).

65 (c) "Department" means the Department of Economic
 66 Opportunity.

67 (d) "Impact business" means a business that, at the time of
 68 the initial relief investment by a relief fund:

69 1. Has fewer than 200 employees;

70 2. Has its principal business operations in this state; and

71 3. Is engaged in the North American Industry Classification
 72 System codes 31-33 or, if not engaged in such industries, the
 73 department determines that an investment in the business will be
 74 beneficial to this state's recovery.

75
 76 For the purposes of this paragraph, a business has its principal
 77 business operations in this state if at least 60 percent of the
 78 business' employees reside in this state, at least 80 percent of
 79 the business' payroll is paid to individuals who reside in this
 80 state, or the business has agreed to use the proceeds of a
 81 relief investment to relocate at least 60 percent of the
 82 business' employees to this state or pay at least 80 percent of
 83 the business' payroll to individuals residing in this state.

84 (e) "Premium taxes" means taxes imposed under s. 624.509 or
 85 s. 624.5091.

86 (f) "Relief contribution" means a cash investment in a
 87 relief fund which equals the amount specified on a notice of tax

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88 credit allocation issued by the department under paragraph
 89 (3) (h). The investment must purchase an equity interest in the
 90 relief fund or purchases, at par value or premium, a debt
 91 instrument issued by the relief fund which has an original
 92 maturity date of at least 5 years after the date of issuance and
 93 a repayment schedule that is no greater than level principal
 94 amortization over 5 years.

95 (g) "Relief fund" means an entity certified by the
 96 department under paragraph (3) (e).

97 (h) "Relief investment" means any capital or equity
 98 investment in an impact business or any loan to an impact
 99 business which has a stated maturity at least 2 years after the
 100 date of issuance. A secured loan is a relief investment only if
 101 it has an initial interest rate of less than 2 percent or
 102 principal and interest payments deferred for at least 1 year. A
 103 subordinate loan is a relief investment only if it has an
 104 initial interest rate of less than 6 percent or principal and
 105 interest payments deferred for at least 1 year. An equity
 106 investment is a relief investment only if the relief fund does
 107 not acquire a majority interest in the small business as a
 108 result of such investment. The term "relief investment" does not
 109 include any transaction that includes an origination fee.

110 (i) "Relief investment authority" means the amount stated
 111 on the notice issued under paragraph (3) (e) certifying the
 112 relief fund. Eighty percent of a relief fund's relief investment
 113 authority must consist of relief contributions.

114 (j) "Small business" means any business that has its
 115 principal business operations in this state, as described in
 116 paragraph (d), and which, at the time the initial relief

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 117 investment is made, has fewer than 250 employees or the number
 118 of employees set forth for the business' North American Industry
 119 Classification System code under 13 C.F.R. s. 121.201, whichever
 120 is greater.

121 (3) (a) Beginning August 1, 2021, the department shall
 122 accept applications for certification of relief funds and relief
 123 contributions. The application must include:

124 1. The total relief investment authority sought by the
 125 applicant;

126 2. Evidence that proves, to the satisfaction of the
 127 department, that:

128 a. The applicant or an affiliate of the applicant is a
 129 federally approved or licensed rural business investment company
 130 under 7 U.S.C. s. 2009cc or a small business investment company
 131 under 15 U.S.C. s. 681. The applicant must include a certificate
 132 executed by an executive officer of the applicant attesting that
 133 the approval or license remains in effect and has not been
 134 revoked;

135 b. At least one principal or similar officer of such entity
 136 is, and has been for at least 4 years, an officer or employee of
 137 the applicant or an affiliate of the applicant on the date the
 138 application is submitted; and

139 c. As of the date the application is submitted, the
 140 applicant and its affiliates have invested more than \$500
 141 million in small businesses, regardless of whether the principal
 142 business operations of the small business are in this state; and

143 3. A signed affidavit from each investor stating that the
 144 investor agrees to make a relief contribution and the amount of
 145 the relief contribution.

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 146 (b)1. Except as provided in subparagraph 2., the department
 147 shall approve or deny an application within 30 days after
 148 receiving the application. The department shall deem
 149 applications received on the same day as having been received
 150 simultaneously. The department may not approve more than \$100
 151 million in relief investment authority and may not approve more
 152 than \$80 million in relief contributions. If approving
 153 simultaneously submitted applications would result in exceeding
 154 these limits, the department shall proportionally reduce the
 155 relief investment authority and the relief contributions for
 156 each approved application as necessary to avoid exceeding the
 157 limit.

158 2. If the department denies an application for
 159 certification as a relief fund, and approving a subsequently
 160 submitted application would result in exceeding the dollar
 161 limitation on relief investment authority or relief
 162 contributions, assuming the previously denied application was
 163 completed, clarified, or cured under subparagraph (e)2., the
 164 agency may not make a determination on the subsequently
 165 submitted application until the previously denied application is
 166 reconsidered or the 15-day period for submitting additional
 167 information regarding that application has passed, whichever
 168 occurs first.

169 (c) The department must deny an application if:

170 1. The application is incomplete, including failing to
 171 submit the affidavits accounting for at least 80 percent of the
 172 relief investment authority sought;

173 2. The applicant does not satisfy the requirements of
 174 subparagraph (a)2.; or

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175 3. The department has already approved the maximum total
 176 relief investment authority and relief contributions authorized
 177 under subparagraph (b)1.

178 (d) The department may not deny a relief fund application
 179 or reduce the requested relief investment authority for reasons
 180 other than those described in paragraphs (b) and (c).

181 (e)1. If the department approves an application, the
 182 department must issue a written notice to the applicant
 183 certifying the applicant as a relief fund and specifying the
 184 applicant's amount of relief investment authority.

185 2. If the department denies an application, the department
 186 must notify the applicant of the reasons for denial. If the
 187 application was denied for any reason other than a reason
 188 specified in paragraph (c) or because the applicant failed to
 189 satisfy subparagraph (a)3., the applicant may submit additional
 190 information to the agency to cure defects in the application
 191 within 15 days after receipt of the notice of denial. The
 192 department must reconsider such application within 15 days after
 193 receiving any additional information and, if the application is
 194 approved, treat it as approved as of its original filing date.

195 (f) Within 30 days after receiving a certification under
 196 paragraph (e), a relief fund must:

197 1. Collect the relief contributions from each investor
 198 whose affidavit was included in the application; and

199 2. Collect direct or indirect equity investments from
 200 affiliates of the relief fund, including employees, officers,
 201 and directors of such affiliates, equal to at least 10 percent
 202 of the relief fund's investment authority.

203 (g) Within 35 days after receiving certification under

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204 paragraph (e), a relief fund must send documentation to the
 205 department which proves the relief fund has collected the
 206 amounts required under paragraph (f). If the relief fund fails
 207 to comply with this paragraph, the department shall revoke the
 208 relief fund's certification.

209 (h) After a relief fund satisfies the requirement under
 210 paragraph (g), the department shall issue to each investor or
 211 affiliate identified under paragraph (g) a notice of the amount
 212 and utilization schedule of the tax credit certificates
 213 allocated to the investor or affiliate as a result of the
 214 investor or affiliate's relief contribution.

215 (i) If a relief fund's certification is revoked under
 216 paragraph (g) or the relief fund has tax credits revoked under
 217 paragraph (5) (b), the corresponding relief investment authority
 218 and relief contributions do not count toward limits on total
 219 relief investment authority and relief contributions authorized
 220 under paragraph (b). The department shall first award lapsed or
 221 revoked relief investment authority and the corresponding relief
 222 contributions pro rata to each relief fund awarded less than the
 223 relief investment authority for which it applied pursuant to
 224 subparagraph (b)1. The department may award any remaining relief
 225 investment authority to new applicants.

226 (4) (a) A nonrefundable tax credit certificate is authorized
 227 for owners of tax credit certificates issued by the department
 228 under paragraph (b). The credit may be claimed against premium
 229 taxes and is transferable to any person that pays premium taxes
 230 in this state.

231 (b) On the closing date, a taxpayer that made a relief
 232 contribution is eligible for a credit equal to the amount

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233 specified in the notice issued under paragraph (3)(h). On or
 234 before the anniversaries of the closing date occurring in 2023,
 235 2024, 2025, 2026, and 2027, the department shall issue a tax
 236 credit certificate equal to one-fifth of the relief
 237 contributions allocated to the taxpayer.

238 (c) Any amount of credits which exceeds the tax otherwise
 239 due for that year may be carried forward for any ensuing taxable
 240 years. An additional retaliatory tax may not be required as a
 241 result of using the credit. A taxpayer claiming a credit under
 242 this section shall submit a copy of the tax credit certificate
 243 with the taxpayer's annual statement for each taxable year in
 244 which the credit is claimed.

245 (5)(a) The department is not required to issue a tax credit
 246 certificate to a relief fund that does not invest at least 70
 247 percent of its relief investment authority in relief investments
 248 within 1 year after the closing date or 100 percent of its
 249 relief investment authority in relief investments within 2 years
 250 after the closing date.

251 (b) The department may revoke tax credit certificates
 252 issued pursuant to subsection (4) if:

253 1. Before satisfying paragraph (a), the relief fund makes a
 254 distribution or payment in excess of the cumulative investment
 255 earnings of the relief fund as of the date of the distribution
 256 or payment, taking into account all past distributions and
 257 payments;

258 2. After satisfying paragraph (a), the relief fund fails to
 259 maintain those levels of investment until the fifth anniversary
 260 of the closing date. For the purposes of this subparagraph, an
 261 investment is maintained even if the investment is sold or

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262 repaid, so long as the relief fund reinvests an amount equal to
 263 the capital returned or recovered from the original investment,
 264 exclusive of any profits realized, in other relief investments
 265 in this state within 1 year of the receipt of such capital.

266 Regularly scheduled principal payments on a loan that is a
 267 relief investment are deemed continuously invested in a relief
 268 investment if the amounts are reinvested in one or more relief
 269 investments by the end of the following calendar year; or

270 3. After satisfying paragraph (a) and before the relief
 271 fund is decertified pursuant to paragraph (d), the relief fund
 272 makes a distribution or payment that results in the relief fund
 273 having less than 100 percent of its relief investment authority
 274 invested in relief investments or held in cash or marketable
 275 securities available for investment in relief investments.

276
 277 The department must notify the relief fund of the reasons for
 278 revocation before revoking tax credit certificates pursuant to
 279 this paragraph. If, within 30 days after the department sends
 280 such notice, the relief fund corrects the reasons given in the
 281 notice to the satisfaction of the department, the department may
 282 not revoke the tax credit certificates.

283 (c) The amount by which one or more relief investments by a
 284 relief fund in the same impact business exceeds \$3.5 million may
 285 not be counted as a relief investment for the purposes of this
 286 section, exclusive of capital repaid or redeemed by such small
 287 business and reinvested as a relief investment in such small
 288 business. A relief investment in an affiliate of an impact
 289 business shall be treated as a relief investment in that impact
 290 business for the purposes of this paragraph.

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291 (d)1. On or after the sixth anniversary of the closing
 292 date, a relief fund that has invested 100 percent of its relief
 293 investment authority in relief investments may apply to the
 294 department to be decertified as a relief fund. The department
 295 shall respond to and not unreasonably deny the application
 296 within 60 days after receiving the application. In evaluating
 297 the application, the fact that no tax credit certificates have
 298 been revoked with respect to the relief fund shall be evidence
 299 to prove that the relief fund is eligible for decertification.
 300 2. The department shall send notice to the relief fund of
 301 its determination with respect to decertification and reasons
 302 for denial, if applicable.
 303 3. The department may not revoke a tax credit certificate
 304 due to any actions of a relief fund which occur after
 305 decertification, but the department may revoke tax credit
 306 certificates due to the actions of a relief fund which occur
 307 before decertification even if such actions are discovered after
 308 the date of decertification.
 309 (e) A relief fund may request a written opinion from the
 310 department as to whether a business qualifies as an impact
 311 business. The department shall issue a written opinion to the
 312 relief fund within 10 business days after receiving such a
 313 request. If the department determines that the business
 314 qualifies as an impact business or if the department fails to
 315 timely issue the written opinion, the business shall be
 316 considered a small business or impact business for the purposes
 317 of this section.
 318 (6) (a) Each relief fund shall submit a report to the
 319 department on or before April 1 of each year, including the

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320 closing date year, until the calendar year after the relief fund
 321 is decertified. The report must provide an itemization of the
 322 relief fund's relief investments and must include the following
 323 documents and information:
 324 1. A bank statement evidencing each relief investment;
 325 2. The name, location, and industry class of each impact
 326 business that received a relief investment from the relief fund
 327 and evidence that the business qualified as an impact business
 328 at the time the investment was made, if applicable;
 329 3. The jobs created and retained as a result of each relief
 330 investment; and
 331 4. Any other information required by the department.
 332 (b) Each relief fund shall submit a report to the
 333 department on or before the fifth business day after the first
 334 and second anniversaries of the closing date which provides
 335 documentation to prove that the relief fund has met the
 336 investment thresholds required in paragraph (5) (a) and has not
 337 violated any of the other revocation provisions described in
 338 paragraph (5) (b).
 339 (7) The department may adopt rules to implement this
 340 section.
 341 Section 2. This act shall take effect July 1, 2021.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*
Commerce and Tourism, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Finance and Tax
Transportation

SENATOR TOM A. WRIGHT

14th District

March 25, 2021

The Honorable Ana Maria Rodriguez
318, Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 1444 – Florida Small Manufacturing Business Recovery Act

Dear Chair Rodriguez:

Senate Bill 1444, relating to the Florida Small Manufacturing Business Recovery Act has been referred to the Committee on Finance and Tax. I am requesting your consideration on placing SB 1444 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom A. Wright", with a large, sweeping flourish underneath.

Tom A. Wright, District 14

cc: Robert Babin, Staff Director of the Committee on Finance and Tax
Stephanie Bell-Parke, Administrative Assistant of the Committee on Finance and Tax

REPLY TO:

- 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

P&J

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/31/2021

Meeting Date

1444

Bill Number (if applicable)

Topic Florida Small Manufacturing Business Recovery Act

Amendment Barcode (if applicable)

Name B.D. Jogerst

Job Title

Address 516 N Adams St

Phone 850-224-7173

Street

Tallahassee

FL

32301

Email bjogerst@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/31/21
Meeting Date

SB1444
Bill Number (if applicable)

Topic Florida Small Manufacturing Business Recovery Act of Amendment Barcode (if applicable)

Name Slater Bayliss

Job Title _____

Address 204 S Monroe St.
Street

Phone 850-222-8900

Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing Advantage Capital Partners

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1592

INTRODUCER: Finance and Tax Committee; and Senator Burgess and others

SUBJECT: Broadband Internet Infrastructure

DATE: April 1, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|----------------|-----------|------------------|
| 1. | <u>Imhof</u> | <u>Imhof</u> | <u>RI</u> | Favorable |
| 2. | <u>Bruno</u> | <u>Babin</u> | <u>FT</u> | Fav/CS |
| 3. | _____ | _____ | <u>AP</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1592 exempts from the sales and use tax the purchase or lease of certain equipment used by providers of communication services or Internet access services, as defined in the bill.

The bill provides broadband providers access for attachments to utility poles of municipal electric utilities. It provides for the adoption of rates, terms, and conditions for the access to the poles consistent with federal requirements for pole attachments or as the parties agree.

The bill provides municipal electrical utilities and broadband providers with two processes by which they can enter into utility pole attachment agreements including the streamlined Florida one-touch, make-ready process created by the bill. The bill prevents municipal electric utilities from requiring a broadband provider to comply with pole attachment specifications except as provided in the bill. The bill provides guidelines for audits and inspections by utilities. The bill provides criteria for determining which party is responsible for costs. The bill further provides for procedures for court review.

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$75 million beginning in Fiscal Year 2021-2022, and by at least \$81.8 million each year thereafter. The bill will reduce local government receipts by \$22.5 million in Fiscal Year 2021-2022, and by at least \$24.6 million each year thereafter.

The bill takes effect July 1, 2021.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,¹ admissions,² transient rentals,³ rental of commercial real estate,⁴ and a limited number of services. Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁵ Sales tax receipts accounted for approximately 79 percent of the state's general revenue in Fiscal Year 2019-2020.⁶

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.⁷ A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."⁸ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered.⁹

Electric Utilities

Investor-Owned Electric Utilities Companies

There are five investor-owned electric utility companies in Florida: Florida Power & Light Company, Duke Energy Florida, Tampa Electric Company, Gulf Power Company, and Florida Public Utilities Corporation.¹⁰ Investor-owned electric utility rates and revenues are regulated by the Florida Public Service Commission (PSC).¹¹

Municipally-Owned Electric Utilities

A municipal electric utility is an electric utility system owned or operated by a municipality engaged in serving residential, commercial or industrial customers, usually within the boundaries of the municipality.¹² Municipally-owned utility rates and revenues are regulated by their city

¹ Section 212.05(1)(a)1.a., F.S.

² Section 212.04(1)(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ Section 212.031, F.S.

⁵ Section 212.07(2), F.S.

⁶ The Office of Economic and Demographic Research, *Florida Tax Handbook*, p. 16 (2020), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Mar. 28, 2021) (hereinafter cited as "The Handbook").

⁷ Section 212.055, F.S.

⁸ Section 212.054(2)(a), F.S.

⁹ The Handbook at p. 225.

¹⁰ Florida Department of Agriculture and Consumer Services, *Electric Utilities*, <https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Electric-Utilities> (last visited Mar. 28, 2021).

¹¹ *Id.*

¹² *Id.*

commission.¹³ The PSC has limited jurisdiction over municipally-owned electric utilities.¹⁴ There are 34 municipal electric companies in Florida¹⁵ and 33 of those municipal electric utilities are represented by the Florida Municipal Electric Association.¹⁶ These companies serve over three million Floridians.¹⁷

Broadband Internet

In 1978, Congress passed the Pole Attachment Act adding section 224 to the Communications Act of 1934. The law requires the Federal Communications Commission (FCC) to establish rates for pole attachments.¹⁸ Public power and rural electric cooperative utilities were exempted from this requirement.^{19, 20}

On April 7, 2011, the FCC adopted an order revising its pole attachment rules.²¹ Public power utilities are not directly impacted by the order because their pole attachments are not subject to the FCC's jurisdiction. The order revised the telecom formula and make-ready provisions to provide a benchmark for pole attachment rates and access.²²

As of March 19, 2020, 23 states have certified to the FCC that they regulate rates, terms, and conditions for pole attachments, and that they have the authority to consider, and do consider, the interests of subscribers of cable television services, as well as the interests of the consumers of the utility services.²³

III. Effect of Proposed Changes:

Section 1 provides the act may be cited as the “Florida Broadband Deployment Act of 2021.”

Section 2 amends s. 212.08, F.S., to exempt from the sales and use tax the purchase or lease of equipment used by providers of communication services or Internet access services. The bill

¹³ *Id.*

¹⁴ Florida Public Service Commission, *2020 FPSC Annual Report*, p.13, available at <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Annualreports/2020.pdf> (last visited Mar. 28, 2021).

¹⁵ Florida Department of Agriculture and Consumer Services, *supra* at n. 10.

¹⁶ Florida Municipal Electric Association, *About FMEA*, <https://www.publicpower.com/about-us> (last visited Mar. 28, 2021).

¹⁷ *Id.*

¹⁸ Pub. L. No. 95-234, 224, 92 Stat. 33 (1978).

¹⁹ *Id.*

²⁰ The term “utility” is defined as: “...any person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications. Such term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State,” and the term State is defined as “any State, territory, or possession of the United States, the District of Columbia, or any political subdivision, agency, or instrumentality thereof.” 47 U.S.C. s. 224 (1996).

²¹ FCC Report and Order, FCC 11-50, April 7, 2011, available at <https://www.fcc.gov/document/fcc-reforms-pole-attachment-rules-boost-broadband-deployment> (last visited Mar. 28, 2021).

²² See American Public Power Association, *Preserving the Municipal Exemption from Federal Pole Attachment Regulations Issue Brief*, available at <https://www.publicpower.org/system/files/documents/January%202021%20-%20Federal%20Pole%20Attachment%20Regulations.pdf> (last visited Mar. 28, 2021).

²³ Federal Communications Commission, *Public Notice – States That Have Certified That They Regulate Pole Attachments*, WC Docket No. 10-101, Public Notice, DA 20-302 (Mar. 19, 2020), available at <https://docs.fcc.gov/public/attachments/DA-20-302A1.pdf> (last visited Mar. 28, 2021).

makes clear that this exemption does not extend to the business rent tax levied by s. 212.031, F.S. The sales and use tax exemption does not include any of the following:

- Real property;
- Improvements to real property;
- Office furniture and fixtures;
- General office equipment and machinery that is not used to provide communications services or Internet access services;
- Vehicles;
- Customer premise equipment; or
- Facilities used to distribute signals beyond the central office, headend, or hub facilities, including fiber optic, coaxial, or other transmission cables; amplifiers; taps; and customer drops.

The bill defines the following terms:

- “Central office” means the location where telephone subscribers’ lines are joined to switching equipment to connect subscribers to each other, locally and long distance. Central office equipment includes, but is not limited to, switches, cable distribution frames, and batteries.
- “Communication services” has the same meaning as in s. 202.11(1), F.S.
- “Headend” means the primary location in a communications provider’s network which receives television programming signals through satellite antennae or fiber optic cables for distribution to the customer premises through a distribution network. Headend equipment includes, but is not limited to, computer-based electronic equipment that receives programming signals and uses prescribed processes to combine, amplify, and convert the programming signals and transmit them through the distribution network. The headend processes and combines signals for distribution to hubs or directly to customer premises. In most cases, the headend also serves as a distribution hub for the fiber optic transfer nodes closest to the headend. The term also includes a super headend, which processes all incoming programming signals and transmits them to regional headends or directly to hubs.
- “Hub” means the secondary location in a communications provider’s network which is connected to the headend by a fiber optic or other cable. A hub may contain electronic equipment that processes, converts, and transmits signals through the distribution network, and can serve a large number of business and residential communities.
- “Internet access service” has the same meaning as in s. 202.11(6), F.S., and only applies to services that provide access to the Internet with a capacity for transmission at a consistent speed of at least 25 megabits per second download and 3 megabits per second upload.
- “Provider of communications services or Internet access services” includes a dealer as defined in s. 202.11(2), F.S., a provider of Internet access service, and any member of an affiliated group as defined in s. 202.37(1)(c)2., F.S.
- “Qualifying equipment” means equipment, machinery, software, or other infrastructure used to provide communications services or Internet access services and located within a central office, headend, or hub operated by a provider of communications services or Internet access services.

Section 3 creates s. 364.0137, F.S., to provide the requirements for broadband provider attachments to municipal electric utility poles.

The bill provides legislative findings that just, reasonable, and nondiscriminatory rates, terms, and conditions for access and use of municipal electric utility poles by broadband service providers is essential for the deployment of broad service to the residents of the state. The bill further provides that the terms and conditions associated with the use and access of utility poles must be consistent with 47 U.S.C. s. 224, FCC regulations promulgated under that law as of the effective date of the bill, or as otherwise agreed by the parties.

The bill defines the following terms:

- “Attachment” means a wire or cable affixed to a utility pole or structure in the communications space or in a duct, conduit, or right-of-way owned or controlled by a municipal electric utility.
- “Broadband provider” means a person who provides fixed, terrestrial broadband service. The term includes a person who provides or offers additional services to the public in addition to broadband service.
- “Broadband service” means a service that provides high-speed access to the Internet at a rate of at least 25 megabits per second in the downstream direction and at least 3 megabits per second in the upstream direction.
- “Communications space” means the lower usable space on a utility pole which is typically reserved for low-voltage communications equipment.
- “Complex make-ready work” means transfers and work within the communications space which would be reasonably likely to cause a service outage or facility damage, including work such as splicing of any communication attachment or relocation of existing wireless attachments. The term includes any and all wireless activities, including those involving mobile, fixed, and point-to-point wireless communications and wireless service providers, and any work involving the space above the safety space as defined in the National Electrical Safety Code.
- “Larger order” means a pole attachment application requesting access to a number of poles greater than the lesser of 300 poles or 0.5 percent of a municipal electric utility’s poles, and up to the lesser of 3,000 poles or 5 percent of the municipal electric utility’s poles. For purposes of determining whether a request is a larger order, a municipal electric utility may treat multiple requests from a single new attacher as one request when the requests are filed within 30 days of one another.
- “Make-ready work” means engineering or construction activities necessary to make a pole or similar structure available for a new pole attachment or pole attachment modification, including, but not limited to, rearrangement, removal, and replacement of the pole, transfers, and other work incident thereto.
- “Redundant pole” means a utility pole designated for removal from which the municipal electric utility has removed its facilities and provided written notice to the broadband service provider that the provider needs to remove its facilities.
- “Simple make-ready work” means work in the communications space to accommodate a new pole attachment on a pole which can be conducted without any reasonable expectation of a:
 - Service outage or facility damage;
 - Need to splice an existing communications attachment; or
 - Need to relocate an existing wireless attachment.

- “Utility pole” means a pole owned or controlled by a municipal electric utility which is used in whole or in part for electric distribution.

The bill provides that to promote the deployment of broadband service to all residents, each municipal utility must provide broadband providers with access to any utility pole it owns or operates and adopt rates, terms and conditions for such access that are consistent with 47 U.S.C. s. 224 and any FCC regulations and decisions adopted as of July 1, 2021, or as agreed by the parties. The rates, terms, and conditions must be nondiscriminatory, just, and reasonable and may not favor a pole owner, other attaching entities, or affiliates of the pole owner. The utility must maintain the records necessary to calculate the charges, including costs, description, and depreciation of the utility poles, including any ancillary poles.

The bill requires a utility to rearrange or otherwise reengineer any utility pole if necessary to accommodate the broadband provider’s new attachment. If the utility pole must be replaced to accommodate the attachment, the utility may only charge the broadband provider its actual and reasonable costs attributable solely to the new attachment, and not for utility betterment or existing noncompliance.

The bill provides that the utility may require a broadband provider to enter an agreement. A utility may only require broadband providers to comply with specifications that are publicly available, reasonable, and nondiscriminatory safety and engineering standards applicable to utility poles. The specifications adopted may not exceed the specifications in the National Electrical Safety Code, applicable fire safety codes, or any building code or publicly available, reasonable, and nondiscriminatory municipal electric utility safety and engineering standards adopted before the broadband provider filed a utility pole attachment application. The specifications must be for the protection of public health, safety, or welfare.

The bill provides two different application processes for utility pole access. The first process can be used if the broadband provider does not request to use the one-touch, make-ready procedures or if the one-touch, make-ready procedures are unavailable due to the kind of work involved. The bill lays out the steps for the first process which provides for parties’ responsibilities, timelines and milestones; exceptions to the parties’ responsibilities, timelines and milestones; and remedies for failures to adhere to the parties’ responsibilities, timelines and milestones.

The bill also creates the Florida one-touch, make-ready (FOTMR) process which is a streamlined process for simple make-ready work applications, which the broadband provider may invoke. The bill lays out the steps for the FOTMR process which provides for parties’ responsibilities, timelines and milestones; exceptions to the parties’ responsibilities, timelines and milestones; and remedies for failures to adhere to the parties’ responsibilities, timelines and milestones.

The bill provides that the utility may make inspections of broadband provider’s attachments at their own cost. The utility must provide reasonable advance written notice of the inspection. The broadband provider is responsible for reimbursing the utility’s cost if the broadband provider’s attachment is found to be in violation of the specifications for utility pole attachment.

The bill provides that the utility may audit the broadband provider’s attachments once every five years, with the reasonable costs borne by the broadband provider. The utility must provide

reasonable advance written notice of the audit. If the audit reveals attachments by the broadband provider that have not been previously disclosed, the utility may charge back rent for up to five years.

The bill outlines the resolution process in the case of facilities attached to redundant utility poles where an agreement cannot be achieved. It outlines duties and responsibilities for each party, timelines for these duties to be completed, and which party will bear the costs. It also provides that the broadband service will “indemnify, defend, and hold harmless the utility pole owner...against all liability” caused by changes to utility pole attachments from redundant utility poles.

The bill states that utilities may not charge additional rent for broadband providers that overlash²⁴ their existing attachments. The bill requires a broadband provider to provide the utility with at least 15 days prior notice before overlashing an attachment and requires the broadband provider to follow safety and engineering standards.

The bill provides that utilities and broadband providers are responsible for their own costs, except as specifically provided. Any costs billed with regards to an attachment must be non-discriminatory in nature.

A utility or provider may seek available remedies at law or equity for violations of the provisions of the bill. The court is required to give effect to the provisions of 47 U.S.C. s. 224 and FCC regulations and decisions in existence on July 1, 2021, or as otherwise authorized in this section, in making its decision.

Section 4 provides emergency rule making authority to the Department of Revenue to implement the bill.

Section 5 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

Subsection (b) Art. VII, s. 18 of 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. However, the mandates

²⁴ Overlashing is the process of physically tying additional cables to the cables that are already attached to a utility pole. See Fierce Telecom, *CenturyLink to FCC: Allow fiber overlashing on poles to accelerate broadband deployment*, by Sean Buckley, April 12, 2018, available at: <https://www.fiercetelecom.com/telecom/centurylink-says-fiber-overlashing-fiber-poles-can-accelerate-broadband-deployment> (last visited Mar. 31, 2021).

requirements do not apply to laws having an insignificant fiscal impact^{25, 26} which for Fiscal Year 2021-2022, is forecast at approximately \$2.2 million or less.²⁷

The Revenue Estimating Conference determined that the bill will reduce local revenues by \$22.5 million beginning in Fiscal Year 2021-2022. Therefore, the mandate provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Not applicable. The bill does not create or increase state taxes or fees. Thus, Art. VII, s. 19 of the Florida Constitution does not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill will reduce General Revenue Fund receipts by \$75 million beginning in Fiscal Year 2021-2022, and by at least \$81.8 million each year thereafter. The bill will reduce local government receipts by \$22.5 million in Fiscal Year 2021-2022, and by at least \$24.6 million each year thereafter.

B. Private Sector Impact:

Broadband service providers may see an adjustment in the pole attachment fees paid to municipal electric utilities for installation of attachments to the utilities' poles. Broadband service providers will be guaranteed access for pole attachment purposes.

²⁵ FLA. CONST. art. VII, s. 18(d).

²⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. *See* Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact at p. 1, (Sep. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 28, 2021).

²⁷ Based on the Demographic Estimating Conference's April 1, 2021, estimated population, adopted on Nov. 13, 2020. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 28, 2021).

C. Government Sector Impact:

Municipal utilities may see an adjustment in the amount of pole attachment fees received from broadband service providers for installation of attachments to the utilities' poles. Municipal utilities will not be able to refuse pole attachments by broadband service providers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 212.08 of the Florida Statutes.

The bill creates section 364.0137 of the Florida Statutes.

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

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

CS by Finance and Tax on March 31, 2021:

The CS:

- Narrows the sales tax exemption by including only purchases and leases of qualifying equipment (excluding sales) and by excluding items such as real estate, office equipment, certain facilities, and vehicles.
- Adds definitions for "central office," "headend," "qualifying equipment," and "hub," which definitions are used to limit the exemption to certain equipment located at certain locations.
- Narrows the types of services that qualify as "Internet Access Service" by limiting Internet Access Service to certain upload and download speeds.
- Allows broadband providers and municipal electric utilities to enter agreements and set costs consistent with 47 U.S.C. s. 224 and rules created pursuant to it or as otherwise agreed.
- Outlines the attachment specifications a utility may require broadband providers to follow.
- Creates two processes for broadband providers to follow to attach their equipment to utilities' poles including a stream-lined process known as "Florida one-touch, make-ready" or "FOTMR."
- Clarifies the definition of "attachment" and defines the terms "communication space," "make-ready work," "simple make-ready work," "complex make-ready work," "redundant pole", and "larger order." These definitions are used in the attachment process.

- Outlines certain rights and responsibilities for utilities and broadband providers in regards to indemnification, inspections, audits, repairs, rent, and overlashing.
- Provides emergency rule making authority to the Department of Revenue.

B. Amendments:

None.

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



803062

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 04/01/2021 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment (with title amendment)

Delete lines 97 - 124

and insert:

(ppp) Equipment purchased or leased in this state by a provider of communications services or a provider of Internet access services.-

1. The purchase or lease of qualifying equipment by a provider of communications services or Internet access services is exempt from the tax imposed by this chapter.



803062

11 2. The exemption provided by this paragraph does not apply
12 to the purchase or lease of any of the following:
13 a. Real property;
14 b. Improvements to real property;
15 c. Office furniture and fixtures;
16 d. General office equipment and machinery that is not used
17 to provide communications services or Internet access services;
18 e. Vehicles;
19 f. Customer premise equipment; or
20 g. Facilities used to distribute signals beyond the central
21 office, headend, or hub facilities, including fiber optic,
22 coaxial, or other transmission cables; amplifiers; taps; and
23 customer drops.
24 3. The exemption provided by this paragraph does not apply
25 to the tax levied by s. 212.031.
26 4. As used in this paragraph, the term:
27 a. "Central office" means the location where telephone
28 subscribers' lines are joined to switching equipment to connect
29 subscribers to each other, locally and long distance. Central
30 office equipment includes, but is not limited to, switches,
31 cable distribution frames, and batteries.
32 b. "Communications services" has the same meaning as in s.
33 202.11(1).
34 c. "Headend" means the primary location in a communications
35 provider's network which receives television programming signals
36 through satellite antennae or fiber optic cables for
37 distribution to the customer premises through a distribution
38 network. Headend equipment includes, but is not limited to,
39 computer-based electronic equipment that receives programming



803062

40 signals and uses prescribed processes to combine, amplify, and
41 convert the programming signals and transmit them through the
42 distribution network. The headend processes and combines signals
43 for distribution to hubs or directly to customer premises. In
44 most cases, the headend also serves as a distribution hub for
45 the fiber optic transfer nodes closest to the headend. The term
46 also includes a super headend, which processes all incoming
47 programming signals and transmits them to regional headends or
48 directly to hubs.

49 d. "Hub" means the secondary location in a communications
50 provider's network which is connected to the headend by a fiber
51 optic or other cable. A hub may contain electronic equipment
52 that processes, converts, and transmits signals through the
53 distribution network, and can serve a large number of business
54 and residential communities.

55 e. "Internet access service" has the same meaning as in s.
56 202.11(6) and only applies to services that provide access to
57 the Internet with a capacity for transmission at a consistent
58 speed of at least 25 megabits per second download and 3 megabits
59 per second upload.

60 f. "Provider of communications services or Internet access
61 services" includes a dealer as defined in s. 202.11(2), a
62 provider of Internet access service, and any member of an
63 affiliated group as defined in s. 202.37(1)(c)2.

64 g. "Qualifying equipment" means equipment, machinery,
65 software, or other infrastructure used to provide communications
66 services or Internet access services and located within a
67 central office, headend, or hub operated by a provider of
68 communications services or Internet access services.



803062

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

And the title is amended as follows:

Delete lines 4 - 7

and insert:

exempting the purchase or lease of certain equipment
by a provider of communications services or a provider
of Internet access services in this state from the
sales and use tax; providing exceptions; defining
terms;



129940

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 04/01/2021 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment (with title amendment)

Delete lines 141 - 279
and insert:
existed on July 1, 2021, except as authorized by this section
and agreed to by the parties.

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

(a) "Attachment" means a wire or cable affixed to a utility
pole or structure in the communications space or in a duct,
conduit, or right-of-way owned or controlled by a municipal



11 electric utility.

12 (b) "Broadband provider" means a person who provides fixed,
13 terrestrial broadband service. The term includes a person who
14 provides or offers additional services to the public in addition
15 to broadband service.

16 (c) "Broadband service" means a service that provides high-
17 speed access to the Internet at a rate of at least 25 megabits
18 per second in the downstream direction and at least 3 megabits
19 per second in the upstream direction.

20 (d) "Communications space" means the lower usable space on
21 a utility pole which is typically reserved for low-voltage
22 communications equipment.

23 (e) "Complex make-ready work" means transfers and work
24 within the communications space which would be reasonably likely
25 to cause a service outage or facility damage, including work
26 such as splicing of any communication attachment or relocation
27 of existing wireless attachments. The term includes any and all
28 wireless activities, including those involving mobile, fixed,
29 and point-to-point wireless communications and wireless service
30 providers, and any work involving the space above the safety
31 space as defined in the National Electrical Safety Code.

32 (f) "Larger order" means a pole attachment application
33 requesting access to a number of poles greater than the lesser
34 of 300 poles or 0.5 percent of a municipal electric utility's
35 poles, and up to the lesser of 3,000 poles or 5 percent of the
36 municipal electric utility's poles. For purposes of determining
37 whether a request is a larger order, a municipal electric
38 utility may treat multiple requests from a single new attacher
39 as one request when the requests are filed within 30 days of one



40 another.

41 (g) "Make-ready work" means engineering or construction
42 activities necessary to make a pole or similar structure
43 available for a new pole attachment or pole attachment
44 modification, including, but not limited to, rearrangement,
45 removal, and replacement of the pole, transfers, and other work
46 incident thereto.

47 (h) "Redundant pole" means a utility pole designated for
48 removal from which the municipal electric utility has removed
49 its facilities and provided written notice to the broadband
50 service provider that the provider needs to remove its
51 facilities.

52 (i) "Simple make-ready work" means work in the
53 communications space to accommodate a new pole attachment on a
54 pole which can be conducted without any reasonable expectation
55 of a:

- 56 1. Service outage or facility damage;
57 2. Need to splice an existing communications attachment; or
58 3. Need to relocate an existing wireless attachment.

59 (j) "Utility pole" means a pole owned or controlled by a
60 municipal electric utility which is used in whole or in part for
61 electric distribution.

62 (3) To promote the deployment of broadband service to all
63 residents, each municipal electric utility shall:

64 (a) Charge just, reasonable, and nondiscriminatory rates
65 for access to any utility pole it owns or operates which do not
66 discriminate between or among such providers and any other
67 attaching entity, including any entity affiliated with the
68 municipal electric utility, regardless of the services



69 furnished. Except as provided in subsection (4), such rates may
70 not exceed the rate calculated consistent with 47 U.S.C. 224(d)
71 and any Federal Communications Commission regulations and
72 decisions adopted thereunder as such regulations and decisions
73 existed on July 1, 2021.

74 (b) Maintain and make available to a broadband provider all
75 records necessary to calculate the rate it charges to the
76 provider in accordance with paragraph (a).

77 (c) Provide broadband providers with access to any utility
78 pole it owns or operates and adopt just, reasonable, and
79 nondiscriminatory terms and conditions for such access
80 consistent with the requirements applicable to investor-owned
81 utilities under 47 U.S.C. s. 224 and any Federal Communications
82 Commission regulations and decisions adopted thereunder, as such
83 regulations and decisions existed on July 1, 2021, except as
84 otherwise provided in this section and agreed to by the parties.
85 Notwithstanding the foregoing:

86 1. If necessary to accommodate a broadband provider's new
87 attachment, the municipal electric utility shall rearrange,
88 expand, replace, or otherwise safely reengineer any utility pole
89 upon the request of the broadband provider.

90 2. If the municipal electric utility is required to replace
91 a utility pole pursuant to subparagraph 1., the municipal
92 electric utility may require a broadband provider to reimburse
93 reasonable costs attributable solely to the new attachment.
94 Broadband providers may not be required to pay for the cost of
95 utility betterment or for costs attributable to preexisting
96 noncompliance.

97 (4) A municipal electric utility may require a broadband



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98 provider to enter into a pole attachment agreement to attach to
99 a utility pole the municipal electric utility owns or operates,
100 and the parties shall negotiate such agreements in good faith.

101 (a) Broadband providers and municipal electric utilities
102 shall negotiate in good faith to adopt pole attachment
103 agreements consistent with this section or to amend existing
104 agreements to ensure that attachments installed after July 1,
105 2021, are performed consistent with the terms of this section.
106 The parties must negotiate in good faith for at least 60 days
107 after receipt of a written request, after which either party may
108 petition the circuit court to determine rates, terms, and
109 conditions for the agreements consistent with this section.

110 (b) A municipal utility may not require a broadband
111 provider to comply with any utility pole attachment
112 specifications except as provided in this section.

113 1. A municipal electric utility may adopt publicly
114 available, reasonable, and nondiscriminatory safety and
115 engineering standards for the protection of public health,
116 safety, or welfare applicable to attachments to the municipal
117 electric utility's poles.

118 2. Safety and engineering standards adopted pursuant to
119 this section may not exceed the specifications in the National
120 Electrical Safety Code, applicable fire safety codes, or any
121 building code or publicly available, reasonable, and
122 nondiscriminatory municipal electric utility safety and
123 engineering standards for the protection of public health,
124 safety, or welfare adopted before the broadband provider filed a
125 utility pole attachment application.

126 (5) If a broadband provider does not request to use one-



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127 touch, make-ready procedures pursuant to subsection (6), or if
128 such procedures are unavailable due to the nature of the make-
129 ready work required to accommodate a broadband provider's
130 attachment, a municipal electric utility and broadband provider
131 shall conduct the pole access process as provided under this
132 subsection.

133 (a) An application is deemed complete if the municipal
134 electric utility does not respond within 10 business days or if
135 the response does not specify any reasons why the application is
136 incomplete. Preconstruction surveys and engineering must be
137 completed within 45 days or within 60 days for larger orders.

138 (b) If a municipal electric utility grants a pole
139 attachment application that requires make-ready work, the
140 municipal electric utility shall identify any make-ready work
141 necessary to accommodate the proposed pole attachment, on a
142 pole-by-pole basis if requested, along with a cost estimate,
143 within 15 days after the date of approval of the pole attachment
144 application. A municipal electric utility may withdraw an
145 outstanding estimate beginning 15 days after the estimate is
146 presented except that such time must be tolled during any good
147 faith negotiation concerning the estimate cost or timing.

148 (c) Upon receipt of payment of the estimate, a municipal
149 electric utility shall immediately notify in writing all known
150 entities with existing attachments which may be affected by the
151 make-ready work.

152 (d)1. Except as provided in paragraph (e), make-ready work
153 must be commenced within 20 business days after the date the
154 applicant made payment for the make-ready work estimate, and
155 must be completed in a timely manner, at a reasonable cost, and



156 as reasonably practicable, but not later than:
157 a. For applications requesting attachment to the lesser of
158 300 poles or 0.5 percent of the electric utility's poles in any
159 30-day period, 30 days or 90 days for attachments above the
160 communications space.
161 b. For larger orders, 75 days or 105 days for attachments
162 above the safety space.
163 2. If an application seeks attachment to a number of poles
164 exceeding a larger order, the parties shall negotiate a
165 reasonable timeframe for completion of the make-ready work
166 covered by the application.
167 (e) A municipal electric utility may deviate from the
168 timelines set forth in paragraph (d) if the parties otherwise
169 agree in their pole attachment agreement, or for good and
170 sufficient cause that renders it infeasible to complete the
171 make-ready work within the time limits set forth in this
172 section, including incidents of natural disasters and
173 emergencies.
174 (f) If a municipal electric utility or any existing
175 attachers fail to complete a survey necessary to the review of
176 an application or to complete make-ready work within the times
177 specified in this section, a broadband provider may hire a
178 contractor to perform such survey or make-ready work.
179 (g) A new attacher shall provide the affected municipal
180 electric utility and existing attachers with advance notice of
181 not less than 5 days of the impending make-ready work and within
182 15 days after completion of make-ready work on a particular
183 pole. The municipal electric utility and affected existing
184 attachers shall inspect the make-ready work within 90 days after



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185 receipt of notice.

186 (h) The new attacher shall notify an affected utility or
187 existing attacher immediately if make-ready work damages the
188 equipment of a utility or an existing attacher or causes an
189 outage that is reasonably likely to interrupt the service of a
190 utility or an existing attacher. Upon notice or discovery of
191 damage or noncompliance caused by the new attacher, the utility
192 or existing attacher may either:

193 1. Complete any necessary remedial work and bill the new
194 attacher for the reasonable costs related to fixing the damage;
195 or

196 2. Require the new attacher to fix the damage at its
197 expense immediately following notice from the utility or
198 existing attacher.

199 (6) A broadband provider seeking a new pole attachment may
200 elect to invoke the Florida one-touch, make-ready (FOTMR)
201 process pursuant to this subsection.

202 (a) Any FOTMR pole attachment application must identify the
203 make-ready work to be performed and must state that the make-
204 ready work required for every utility pole in the application
205 does not require anything more than simple make-ready work. It
206 is the responsibility of the broadband provider to ensure that
207 the make-ready work requested in an attachment application is
208 simple make-ready work and not complex make-ready work.

209 (b) A municipal electric utility shall review a new FOTMR
210 pole attachment application for completeness. An application is
211 deemed complete if the municipal electric utility does not
212 respond within 10 business days after receipt of the application
213 or if the response does not specify any reasons why the



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214 application is incomplete.

215 (c) A municipal electric utility shall review a completed
216 application requesting FOTMR and respond to the applicant either
217 granting or denying an application within 15 days after the
218 municipal electric utility's receipt of a complete application
219 or 30 days after for a larger order.

220 (d) The municipal electric utility or an existing attacher
221 may object in writing to the applicant's designation that
222 certain aspects of the work required is simple make-ready work.
223 If the municipal electric utility or existing attacher
224 reasonably objects, then the work is deemed complex make-ready
225 work and the FOTMR process is not available to the broadband
226 provider and the application must be processed under the
227 standard make-ready provisions.

228 (e) The new attacher is responsible for coordinating all
229 surveys as part of the FOTMR process and shall use a qualified
230 contractor as set forth in this section. The new attacher shall
231 make commercially reasonable efforts to provide at least 3
232 business days advance notice to the municipal electric utility
233 and existing attachers to allow them to be present for any
234 surveys performed in advance of the FOTMR application.

235 (f) If the new attacher's application is approved and if it
236 has provided 15 days prior written notice of the date, time and
237 nature of the make-ready work to the affected municipal electric
238 utility and existing attaching entities, the new attacher may
239 proceed with the make-ready work using a qualified contractor.

240 (g) The new attacher shall notify any affected municipal
241 electric utility or existing attaching entity immediately if the
242 make-ready work performed damages any equipment or facilities of



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243 the municipal electric utility or of an existing attaching
244 entity. Upon receiving notice from the applicant, the municipal
245 electric utility or existing attaching entity may each make the
246 decision to:

247 1. Complete any necessary remedial work and bill the
248 applicant for the actual costs incurred related to fixing the
249 damage or outage; or

250 2. Require the applicant to fix the damage or outage at its
251 expense immediately following the notice from the municipal
252 electric utility or any existing attacher.

253 (h) The new attacher shall notify the municipal electric
254 utility and existing attachers within 15 days after the make-
255 ready work is completed on a particular pole, and the municipal
256 electric utility and existing attachers shall have 90 days after
257 receipt of the notice to inspect the make-ready work at the new
258 attacher's cost. The municipal electric utility and existing
259 attaching entities may complete any necessary remedial work and
260 bill the applicant for the actual cost incurred or require the
261 applicant the fix the damage or code violations at its expense
262 within 14 days after notice from the pole owner or existing
263 attaching entity.

264 (7) (a) A municipal electric utility may make periodic
265 inspections of a broadband provider's attachments, using its own
266 employees or contractors, and such broadband provider shall
267 reimburse the municipal electric utility for the actual and
268 reasonable expense of such inspections, but only for the costs
269 of inspecting the poles on which the broadband provider is found
270 to be in violation of the National Electrical Safety Code or
271 publicly available, reasonable, and nondiscriminatory municipal



272 electric utility safety and engineering standards for the
273 protection of public health, safety, or welfare permitted by
274 this section.

275 (b) No more frequently than once every 5 years, a municipal
276 electric utility may conduct an audit of a broadband provider's
277 attachments, with the reasonable cost of the audit of the
278 broadband provider's attachments to be borne by the broadband
279 provider. If the results of the pole audit show attachments to
280 poles by the broadband service provider not previously
281 authorized by the municipal electric utility, such poles must be
282 added to the next annual rent invoice and the municipal electric
283 utility may require the broadband service provider to pay up to
284 5 years' back rent for attachments to all such poles not
285 previously authorized as required by the agreement in effect at
286 the time of the attachment.

287 (c) The municipal electric utility shall give a broadband
288 provider reasonable advance written notice of such audits or
289 inspections, except in those instances where safety
290 considerations justify the need for such inspection without the
291 delay of waiting until written notice has been received.

292 (8) If a municipal electric utility pole owner and any
293 attacher cannot reach an agreement or have a dispute related to
294 facilities attached to a redundant pole:

295 (a) A broadband service provider must remove its pole
296 attachments from a redundant pole within 120 calendar days after
297 receipt of written or electronic notice consistent with industry
298 standards from the pole owner requesting such removal which
299 notice includes the pole number, physical address, and GIS
300 coordinates of such pole.



301 (b) If a broadband service provider fails to remove a pole
302 attachment pursuant to paragraph (a), except to the extent
303 excused by an event of force majeure or other good cause, the
304 pole owner or its agent may transfer or relocate the pole
305 attachment to a new pole at the noncompliant attaching entity's
306 expense or, if no new pole exists because the municipal electric
307 utility has relocated its facilities underground, remove the
308 pole attachment and store the attached facility for 60 days.

309 (c) The broadband service provider shall indemnify, defend,
310 and hold harmless the pole owner and its directors, officers,
311 agents, and employees from and against all liability for direct
312 damage and personal injury caused by the removal, transfer,
313 sale, or disposal of the pole attachments from a redundant pole
314 by the pole owner except to the extent of the municipal electric
315 utility's negligence or willful misconduct.

316 (9) Municipal electric utilities may not charge additional
317 rent or require prior approval or applications for a broadband
318 provider that overlashes its existing wires on a pole. Municipal
319 electric utilities may require up to 15 days' advance notice of
320 planned overlashing. A party that engages in overlashing is
321 responsible for its own equipment and shall ensure that it
322 complies with National Electrical Safety Code and publicly
323 available, reasonable, and nondiscriminatory municipal electric
324 utility safety and engineering standards for the protection of
325 public health, safety, or welfare permitted by this section.

326 (10) Municipal electric utilities and broadband providers
327 are responsible for their own costs related to utility poles and
328 attachments, except as specifically provided herein. Any costs
329 billed in connection with pole attachments must be commercially



330 reasonable and nondiscriminatory, and must include sufficient
331 detail to enable the billed party to verify the accuracy and
332 reasonableness of the costs. A municipal electric utility that
333 provides broadband shall impute to itself the costs of providing
334 such services, and charge any affiliate, subsidiary, or
335 associate company engaged in the provision of such services, an
336 equal amount to the pole attachment rate for which such company
337 would be liable under this section.

338 (11) A municipal electric utility or broadband provider may
339 seek any available remedies at law or equity for violations of
340 this section. In all cases involving this section, and to the
341 extent not otherwise provided by this section, the court shall
342 give effect to the provisions and intent of 47 U.S.C. s. 224 and
343 any Federal Communications Commission rules, regulations, or
344 decisions adopted thereunder, as such existed on July 1, 2021,
345 or as authorized by this section.

346
347 ===== T I T L E A M E N D M E N T =====

348 And the title is amended as follows:

349 Delete lines 12 - 30

350 and insert:

351 records available to broadband providers, provide
352 access to its utility poles, and establish just and
353 reasonable terms and conditions for broadband provider
354 attachments; providing a process for a municipal
355 electric utility and a broadband provider to enter
356 into pole attachment agreements; prohibiting municipal
357 electric utilities from prohibiting a broadband
358 provider from using certain techniques and equipment



359 if used in accordance with certain safety standards;
360 providing an application process and timelines for
361 pole access between a municipal electric utility and a
362 broadband provider; authorizing a broadband provider
363 seeking a new pole attachment to invoke the Florida
364 one-touch, make-ready process; providing requirements
365 for such process; authorizing a municipal electric
366 utility to make periodic inspections of a broadband
367 provider's attachments; requiring the broadband
368 provider to reimburse the municipal electric utility
369 for certain costs relating to such inspections;
370 authorizing a municipal electric utility to conduct
371 audits of such attachments according to a specified
372 timeframe; requiring advanced written notice of such
373 inspections or audits; providing for the removal of
374 pole attachments within a specified timeframe upon
375 unresolved disputes; prohibiting a municipal electric
376 utility from charging additional rent or requiring
377 prior approval or applications for overlashes;
378 requiring any billed costs to be commercially
379 reasonable, nondiscriminatory, and sufficiently
380 detailed; authorizing



404422

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 04/01/2021 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment (with title amendment)

Between lines 279 and 280
insert:

Section 4. (1) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of administering this act.

(2) Notwithstanding any other law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after



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11 adoption and may be renewed during the pendency of procedures to
12 adopt permanent rules addressing the subject of the emergency
13 rules.

14 (3) This section shall take effect upon this act becoming a
15 law and expires July 1, 2022.

16
17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete line 32

20 and insert:

21 to seek any available remedies; authorizing the
22 Department of Revenue to adopt emergency rules;
23 providing that such rules are effective for a
24 specified timeframe and may be renewed; providing an
25 effective

By Senator Burgess

20-00948C-21

20211592__

1 A bill to be entitled
 2 An act relating to broadband Internet infrastructure;
 3 providing a short title; amending s. 212.08, F.S.;
 4 exempting the purchase, lease, or sale of certain
 5 equipment used by a provider of communications
 6 services or a provider of Internet access services in
 7 this state from the sales and use tax; defining terms;
 8 creating s. 364.0137, F.S.; providing legislative
 9 findings; defining terms; requiring municipal electric
 10 utilities to ensure that their broadband provider
 11 rates and fees meet certain requirements, make certain
 12 records available to broadband providers, and
 13 establish just and reasonable terms and conditions for
 14 broadband provider attachments; prohibiting municipal
 15 electric utilities from prohibiting a broadband
 16 provider from using certain techniques and equipment
 17 if used in accordance with certain safety standards;
 18 requiring any required pole replacement by a municipal
 19 electric utility to be completed within a specified
 20 timeframe; prohibiting municipal electric utilities
 21 from requiring a broadband provider to comply with
 22 attachment specifications that exceed specified
 23 established safety levels; providing construction;
 24 authorizing municipal electric utilities or broadband
 25 providers to negotiate agreements or renegotiate
 26 existing agreements and to petition the court after a
 27 specified timeframe if unable to reach an agreement;
 28 requiring the court to make a determination within a
 29 specified timeframe; specifying that such

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30 determination applies retroactively; authorizing
 31 municipal electric utilities and broadband providers
 32 to seek any available remedies; providing an effective
 33 date.

34
 35 WHEREAS, although this state is a national leader in
 36 private sector broadband investment, including billions of
 37 dollars invested by existing service providers, estimates show
 38 that as many as 804,000 residents lack access to the services,
 39 particularly in rural areas where the cost to deploy facilities
 40 is significantly higher than in more densely populated areas,
 41 and

42 WHEREAS, the lack of advanced communication capabilities,
 43 broadband facilities, and services in certain areas deprives
 44 residents of access to opportunities, and

45 WHEREAS, the Legislature finds that it is in the public
 46 interest of this state to encourage private-sector investment in
 47 broadband deployment and upgrades, encourage greater
 48 participation and access for all residents, and remove
 49 regulatory and economic barriers to such investment, and

50 WHEREAS, the Legislature finds that it is in the public
 51 interest of this state to encourage and facilitate the
 52 development of and investment in broadband facilities to advance
 53 Florida's economic competitiveness, create job opportunities,
 54 enhance health care, and enhance educational advancement, and

55 WHEREAS, the Legislature finds that reasonable rates,
 56 terms, and conditions for access and use of municipal utility
 57 poles by broadband service providers are essential for the
 58 deployment, upgrade, and maintenance of broadband service, and

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59 WHEREAS, it is critical that such access rates, terms, and
60 conditions be reasonable and fully compensatory, as approved by
61 the federal pole attachment regime imposed by the Communications
62 Act of 1934, as amended, 47 U.S.C. s. 224, and the rules and
63 regulations of the Federal Communications Commission governing
64 utilities whose pole attachments are regulated under federal
65 law, NOW, THEREFORE,

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

68
69 Section 1. This act may be cited as the "Florida Broadband
70 Deployment Act of 2021."

71 Section 2. Paragraph (ppp) is added to subsection (7) of
72 section 212.08, Florida Statutes, to read:

73 212.08 Sales, rental, use, consumption, distribution, and
74 storage tax; specified exemptions.—The sale at retail, the
75 rental, the use, the consumption, the distribution, and the
76 storage to be used or consumed in this state of the following
77 are hereby specifically exempt from the tax imposed by this
78 chapter.

79 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
80 entity by this chapter do not inure to any transaction that is
81 otherwise taxable under this chapter when payment is made by a
82 representative or employee of the entity by any means,
83 including, but not limited to, cash, check, or credit card, even
84 when that representative or employee is subsequently reimbursed
85 by the entity. In addition, exemptions provided to any entity by
86 this subsection do not inure to any transaction that is
87 otherwise taxable under this chapter unless the entity has

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88 obtained a sales tax exemption certificate from the department
89 or the entity obtains or provides other documentation as
90 required by the department. Eligible purchases or leases made
91 with such a certificate must be in strict compliance with this
92 subsection and departmental rules, and any person who makes an
93 exempt purchase with a certificate that is not in strict
94 compliance with this subsection and the rules is liable for and
95 shall pay the tax. The department may adopt rules to administer
96 this subsection.

97 (ppp) Equipment purchased, leased, or sold in this state
98 for use by a provider of communications services or a provider
99 of Internet access services.—

100 1. The purchase, lease, or sale of equipment used in the
101 business of providing communications services or Internet access
102 services, in whole or in part, by a provider of communications
103 services or Internet access services is exempt from the tax
104 imposed by this chapter.

105 2. As used in this paragraph, the term:

106 a. "Equipment used in the business of providing
107 communications services or Internet access services" means all
108 equipment, machinery, software, or other infrastructure that is:

109 (I) Classified as central office equipment, station
110 equipment or apparatus, station connection, wiring, or large
111 private branch exchanges according to the uniform system of
112 accounts which was adopted and prescribed for the provider by
113 the Public Service Commission; or

114 (II) Part of a national, regional, or local headend or
115 similar facility operated by a provider of communications
116 services or Internet access services.

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117 b. "Communications services" has the same meaning as in s.
118 202.11(1).

119 c. "Internet access service" has the same meaning as
120 defined in s. 202.11(6).

121 d. "Provider of communications services or Internet access
122 services" means a dealer as defined in s. 202.11(2) and any
123 member of an affiliated group as defined in s. 202.37(1)(c)2.
124 with such dealer.

125 Section 3. Section 364.0137, Florida Statutes, is created
126 to read:

127 364.0137 Broadband service infrastructure.-

128 (1) The Legislature finds that just, reasonable, and
129 nondiscriminatory rates, terms, and conditions for the access
130 and use of municipal electric utility poles by broadband service
131 providers is essential to deploy, upgrade, and maintain
132 broadband service to residents of this state. It is critical
133 that municipal electric utility pole access and use rates are
134 just, reasonable, nondiscriminatory, and fully compensatory,
135 which may be achieved under the federal framework applicable to
136 utility poles owned and operated by investor-owned utilities.
137 The terms and conditions associated with the access and use of
138 utility poles must be consistent with 47 U.S.C. s. 224, the
139 Communications Act of 1934, as amended, and the regulations of
140 the Federal Communications Commission as those regulations
141 existed on July 1, 2021.

142 (2) As used in this section, the term:

143 (a) "Attachment" means any attachment to a utility pole or
144 structure, duct, conduit, or right-of-way owned or controlled by
145 a municipal electric utility.

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146 (b) "Broadband provider" means a person who provides
147 broadband service and includes a person who provides or offers
148 additional services to the public in addition to broadband
149 service.

150 (c) "Broadband service" means a service that provides high-
151 speed access to the Internet at a rate of at least 25 megabits
152 per second in the downstream direction and at least 3 megabits
153 per second in the upstream direction.

154 (d) "Utility pole" means a pole owned or controlled by a
155 municipal electric utility which is used in whole or in part for
156 electric distribution.

157 (3) To promote the deployment of broadband service to all
158 residents, each municipal electric utility:

159 (a) Shall provide broadband providers with access to any
160 utility pole it owns or operates and adopt rates, terms, and
161 conditions for such access which are consistent with 47 U.S.C.
162 s. 224 and any Federal Communications Commission regulations and
163 decisions adopted thereunder as such regulations and decisions
164 existed on July 1, 2021. Such rates, terms, and conditions must
165 be nondiscriminatory, just, and reasonable and may not favor a
166 pole owner or an affiliate of the pole owner.

167 (b)1. Shall ensure that any rate or fee that the municipal
168 electric utility charges to a broadband provider for an
169 attachment to a utility pole does not do any of the following:

170 a. Discriminate between or among such providers and any
171 other attaching entity, regardless of the services furnished.

172 b. Exceed the annual recurring rate calculated in
173 accordance with the cable service rate formula established by 47
174 U.S.C. s. 224(d) or any Federal Communications Commission rule,

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175 regulation, or decision adopted thereunder, as such existed on
 176 July 1, 2021.

177 2. Shall maintain and make available to a broadband
 178 provider all records necessary to calculate the rate it charges
 179 to the provider. The records must include all of the following:

180 a. All costs associated with utility poles; any
 181 improvements or reinforcements thereto; and any appurtenances,
 182 including costs associated with storm hardening efforts, which
 183 must be identified with particularity.

184 b. Identification of the actual height, usable space, and
 185 appurtenances associated with each utility pole.

186 c. Information regarding any ancillary utility poles and
 187 the costs associated with such poles, which are separately
 188 identifiable from the principal utility poles they support.

189 d. To the extent the accumulated depreciation for a utility
 190 pole which is used to calculate the rate is based on records
 191 specific to pole plant rather than based on proration of
 192 accumulated depreciation tracked at a higher aggregated plant
 193 amount, sufficiently detailed data to support the pole-specific
 194 figure.

195 (c) Shall establish just and reasonable terms and
 196 conditions for a broadband provider attachment which do not
 197 discriminate between or among providers or any other attaching
 198 entity and which are consistent with 47 U.S.C. s. 224 and any
 199 Federal Communications Commission rule, regulation, or decision
 200 adopted thereunder, as such existed on July 1, 2021, except
 201 that:

202 1. If necessary to accommodate a broadband provider's new
 203 attachment, the municipal electric utility shall rearrange,

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204 expand, replace, or otherwise safely reengineer any utility pole
 205 upon the request of the broadband provider. If the municipal
 206 electric utility is required to replace a utility pole pursuant
 207 to this subparagraph, the municipal electric utility may not
 208 require a broadband provider to reimburse any costs associated
 209 with such pole replacement beyond the recovery of its actual and
 210 reasonable costs of advancing the retirement of the existing
 211 utility pole. Such costs shall be measured by all of the
 212 following:

213 a. The net book value of the existing utility pole;
 214 b. The incremental cost, if any, of installing a utility
 215 pole with greater capacity than the utility pole the municipal
 216 electric utility would have installed in the normal course of
 217 its operations;

218 c. Any other incremental costs proved by the municipal
 219 electric utility, provided that such incremental costs do not
 220 include any costs associated with a utility pole the municipal
 221 electric utility would have installed at the same location;

222 2. The municipal electric utility may not prohibit the
 223 broadband provider from using boxing techniques, extension arms,
 224 attachments below existing attachments where space is
 225 unavailable above existing attachments, temporary attachments,
 226 or other methods or equipment, provided that such use complies
 227 with the National Electric Safety Code or other applicable
 228 safety codes; and

229 3. With respect to a utility pole replacement, the
 230 municipal electric utility must complete such pole replacement
 231 and any other work necessary to accommodate the broadband
 232 provider's attachment to the replaced pole within 90 days after

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233 receiving a complete attachment request from a broadband
234 provider.

235 (d) May not require a broadband provider to comply with any
236 utility pole attachment specifications that exceed the
237 specifications in the National Electric Safety Code, applicable
238 fire safety codes, or any building code or similar code of
239 general applicability for the protection of public health,
240 safety, or welfare which was adopted by the applicable local
241 governmental jurisdiction before the broadband provider filed a
242 utility pole attachment application. However, this section may
243 not be construed to expand the power of any local governmental
244 jurisdiction.

245 (4) A municipal electric utility or broadband provider may
246 submit a written request to negotiate agreements or to amend,
247 modify, or renew any existing agreement addressing attachments
248 by the broadband provider to conform such agreements to this
249 section. The parties must negotiate in good faith for at least
250 60 days after the written request, after which either party may
251 petition the circuit court to determine rates, terms, and
252 conditions for the agreements consistent with this section. The
253 court shall make a determination within 180 days after the
254 filing of the petition for that determination. The court's
255 determination applies retroactively to attachments between the
256 date of the written request to negotiate and the date of the
257 commission's determination, and to the continuing terms of all
258 existing attachments that were installed before the written
259 request. Between the date of the written request to negotiate
260 and the date of the court's determination:

261 (a) The terms and conditions of any existing agreement

Page 9 of 10

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

20-00948C-21 20211592__

262 addressing such attachments apply, subject to true-up, to put
263 the parties in the positions in which they would have been had
264 the court's determination been in effect on the date of the
265 written request to negotiate; and

266 (b) In the absence of such existing agreement, unless the
267 parties agree otherwise, the court, within 30 days after the
268 petition for a determination, must establish interim rates,
269 terms, and conditions that will apply, subject to true-up, to
270 put the parties in the positions in which they would have been
271 had the court's determination been in effect on the date of the
272 written request to negotiate.

273 (5) A municipal electric utility or broadband provider may
274 seek any available remedies at law or equity for violations of
275 this section. In all cases involving this section, and to the
276 extent not otherwise provided by this section, the court shall
277 give effect to the provisions and intent of 47 U.S.C. s. 224 and
278 any Federal Communications Commission rules, regulations, or
279 decisions adopted thereunder, as such existed on July 1, 2021.

280 Section 4. This act shall take effect July 1, 2021.

Page 10 of 10

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



The Florida Senate

Committee Agenda Request

To: Senator Ana Maria Rodriguez, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: March 9, 2021

I respectfully request that **Senate Bill #1592**, relating to Broadband Internet Infrastructure, be placed on the:

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

A handwritten signature in blue ink that reads "Danny".

Senator Danny Burgess
Florida Senate, District 20

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/31/21

Meeting Date

1592

Bill Number (if applicable)

Topic Broadband Internet Infrastructure

Amendment Barcode (if applicable)

Name Tony Canvajal

Job Title _____

Address 106 N Bronough St

Phone 850 222 5052

Tallahassee FL 32301

Email Tcanvajal@FloridaTaxWatch.org

Speaking: For Against Information

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

Representing Florida Tax Watch

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

3/31/21

Meeting Date

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

1592

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Ray Scott

Job Title retired

Address 903 Collins Rd I

Phone (850) 544-9871

Street

Havana

FL

32333

Email wray.scott22@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

31 Mar 21

Meeting Date

1592

Bill Number (if applicable)

Topic Broadband Internet Infrastructure

Amendment Barcode (if applicable)

Name James Mosteller

Job Title Senior Advocacy Associate

Address 215 S. Monroe Street, suite 420

Phone 850-727-3712

Street

Tallahassee

FL

32301

Email James@afloridapromise.org

City

State

Zip

Speaking: For Against Information

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

Representing The Foundation for Florida's Future

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

3/31/2021

Meeting Date

1592

Bill Number (if applicable)

Topic Broadband Internet Infrastructure

Amendment Barcode (if applicable)

Name B.D. Jogerst

Job Title _____

Address 516 N Adams St

Phone 850-224-7173

Street

Tallahassee

FL

32301

Email bjogerst@aif.com

City

State

Zip

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3.31.21
Meeting Date

SB ~~252~~ 1592
Bill Number (if applicable)

Topic Broadband Internet Infrastructure

Amendment Barcode (if applicable)

Name Damaris Allen

Job Title _____

Address 1747 Orlando Central Parkway Phone 407 855 7604
Street
Orlando, FL 32809 Email allendamaris@gmail.com
City State Zip

Speaking: For Against Information

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

Representing FL PTA

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

3/31/21

Meeting Date

SB 1592

Bill Number (if applicable)

Topic Broadband Internet Infrastructure

Amendment Barcode (if applicable)

Name Charlie Dudley

Job Title Attorney

Address 108 S Monroe St

Phone 850-681-0024

Street

Tallahassee

FL

32301

Email cdudley@flapartners.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Internet and Television Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/31/21

Meeting Date

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

1592

Bill Number (if applicable)

Topic Broadband

Amendment Barcode (if applicable)

Name Ryan Matthews

Job Title Legislative Counsel

Address PO Box 10930

Phone 681 7383

Street

Tallahassee FL 32301

City

State

Zip

Email ryan@psmfl.net

Speaking: For Against Information

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

Representing FL Municipal Electric Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/31/21

Meeting Date

SB 1592

Bill Number (if applicable)

129940 / 0803062

Amendment Barcode (if applicable)

Topic Broadband Internet Infrastructure

Name Charlie Dudley

Job Title Attorney

Address 108 S Monroe St

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-681-0024

Email cdudley@flapartners.com

Speaking: For Against Information

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

Representing Florida Internet and Television Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Finance and Tax Committee

Judge:

Started: 3/31/2021 11:03:54 AM

Ends: 3/31/2021 12:30:44 PM

Length: 01:26:51

11:03:53 AM Meeting called to order by Chair Rodriguez
11:03:55 AM Roll call by CAA Stephanie Bell-Parke
11:04:04 AM Quorum present
11:04:13 AM Comments from Chair Rodriguez
11:04:28 AM Introduction of Tab 1, CS/SB 750 by Chair Rodriguez
11:05:01 AM Explanation of CS/SB 750, Impact Fees by Senator Gruters
11:05:30 AM Comments from Chair Rodriguez
11:06:02 AM Introduction of Amendment Barcode 434354 by Chair Rodriguez
11:06:09 AM Explanation of Amendment by Senator Gruters
11:06:26 AM Comments from Chair Rodriguez
11:06:38 AM Introduction of Amendment-to-Amendment Barcode 427800 by Chair Rodriguez
11:06:51 AM Explanation of Amendment-to-Amendment by Senator Gruters
11:07:00 AM Comments from Chair Rodriguez
11:07:08 AM Closure waived
11:08:41 AM Amendment-to-Amendment adopted
11:08:43 AM Comments from Chair Rodriguez
11:09:22 AM Speaker Bob McKee, Florida Association of Counties waives in support
11:09:34 AM Billie Anne Gray, Florida School Boards Association waives in support on Amendment 427800
11:09:37 AM Kari Hebrank, Florida Home Builders waives in support on Amendment 380906
11:09:41 AM Introduction of Amendment Barcode 380906 by Chair Rodriguez
11:09:52 AM Explanation of Amendment by Senator Gruters
11:10:08 AM Comments from Chair Rodriguez
11:10:13 AM Bob McKee, Florida Association of Counties waives in support
11:11:24 AM Comments from Chair Rodriguez
11:11:31 AM Closure waived
11:11:37 AM Amendment adopted
11:11:39 AM Comments from Chair Rodriguez
11:11:44 AM Question from Senator Berman
11:12:23 AM Response from Senator Gruters
11:12:41 AM Follow-up from Senator Berman
11:12:50 AM Response from Senator Gruters
11:13:06 AM Follow-up question from Senator Berman
11:13:13 AM Response from Senator Gruters
11:13:45 AM Jane West, 1000 Friends of Florida in opposition
11:16:10 AM Speaker Bob McKee, Florida Association of Counties in opposition
11:16:57 AM Speaker David Cruz, Florida League of Cities in opposition
11:18:06 AM Marco Parades, Encore Capital Management waives in support
11:18:10 AM Speaker Kari Hebrank, NUCA of Florida, Florida Home Builders Association in support
11:19:39 AM Speaker Dane Bennett, Florida Home Builders Association in support
11:20:38 AM Comments from Chair Rodriguez
11:20:45 AM Senator Berman in debate
11:21:35 AM Senator Gruters in closure
11:21:40 AM Roll call by CAA
11:22:13 AM CS/CS/SB 750 reported favorably
11:22:33 AM Introduction of Tab 3, SB 1254 by Chair Rodriguez
11:22:52 AM Explanation of SB 1254, Ad Valorem Assessments by Senator Bean
11:25:15 AM Comments from Chair Rodriguez
11:25:26 AM Question from Senator Berman
11:25:33 AM Response from Senator Bean
11:26:47 AM Question from Senator Harrell
11:26:52 AM Response from Senator Bean
11:27:33 AM Introduction of Amendment Barcode 977590 by Chair Rodriguez

11:27:42 AM Explanation of Amendment by Senator Bean
11:27:46 AM Comments from Chair Rodriguez
11:28:02 AM Closure waived
11:28:05 AM Amendment adopted
11:28:18 AM Lauren Levy, General Counsel, Property Appraisers' Association of Florida waives in support
11:28:31 AM Comments from Chair Rodriguez
11:28:39 AM Closure waived
11:28:45 AM Roll call by CAA
11:28:53 AM C/SB 1254 reported favorably
11:29:08 AM Introduction of Tab 5, SB 1592 by Chair Rodriguez
11:29:22 AM Explanation of SB 1592, Broadband Internet Infrastructure by Senator Burgess
11:32:18 AM Comments from Chair Rodriguez
11:32:24 AM Question from Senator Jones
11:32:38 AM Introduction of Amendment Barcode 404422 by Chair Rodriguez
11:32:55 AM Explanation of Amendment by Senator Burgess
11:33:08 AM Comments from Chair Rodriguez
11:33:24 AM Closure waived
11:33:28 AM Amendment adopted
11:33:32 AM Introduction of Amendment Barcode 129940 by Chair Rodriguez
11:33:42 AM Explanation of Amendment by Senator Burgess
11:36:24 AM Question from Senator Jones
11:36:30 AM Response from Senator Burgess
11:37:36 AM Question from Senator Berman
11:37:42 AM Response from Senator Burgess
11:38:21 AM Follow-up question from Senator Berman
11:38:28 AM Response from Senator Burgess
11:38:46 AM Follow-up question from Senator Berman
11:38:53 AM Response from Senator Burgess
11:39:26 AM Question from Senator Harrell
11:39:32 AM Response from Senator Burgess
11:40:32 AM Question from Senator Wright
11:40:42 AM Response from Senator Burgess
11:42:58 AM Follow-up question from Senator Wright
11:43:38 AM Response from Senator Burgess
11:46:05 AM Comments from Chair Rodriguez
11:46:14 AM Speaker Chairlie Dudley, Florida Internet and Television Association in support
11:53:05 AM Comments from Chair Rodriguez
11:53:29 AM Closure waived
11:53:31 AM Amendment adopted
11:53:38 AM Introduction of Amendment Barcode 803062 by Chair Rodriguez
11:53:46 AM Explanation of Amendment by Senator Burgess
11:54:36 AM Question from Senator Berman
11:54:44 AM Response from Senator Burgess
11:55:09 AM Speaker Charlie Dudley, Florida Internet and Television Association in support
11:55:34 AM Comments from Chair Rodriguez
11:55:43 AM Senator Burgess in closure
11:55:59 AM Comments from Chair Rodriguez
11:56:05 AM Amendment adopted
11:56:16 AM Question from Senator Jones
11:56:27 AM Response from Senator Burgess
11:56:48 AM Follow-up question from Senator Jones
11:57:25 AM Response from Senator Burgess
11:58:50 AM Follow-up question from Senator Jones
11:58:57 AM Response from Senator Burgess
12:00:18 PM Follow-up question from Senator Jones
12:00:24 PM Response from Senator Burgess
12:01:32 PM Question from Senator Berman
12:01:43 PM Response from Senator Burgess
12:02:29 PM Follow-up question from Senator Berman
12:03:29 PM Response from Senator Burgess
12:03:36 PM Follow-up question from Senator Berman
12:03:44 PM Response from Senator Burgess

12:04:40 PM Follow-up question from Senator Berman
12:04:48 PM Response from Senator Burgess
12:05:19 PM Follow-up question from Senator Berman
12:05:27 PM Response from Senator Burgess
12:05:52 PM Follow-up question from Senator Berman
12:05:59 PM Response from Senator Burgess
12:07:04 PM Question from Senator Harrell
12:07:13 PM Response from Senator Burgess
12:08:49 PM Question from Senator Wright
12:08:54 PM Response from Senator Burgess
12:09:29 PM Follow-up question from Senator Wright
12:09:36 PM Response from Senator Burgess
12:09:57 PM Speaker Ray Scott for information
12:13:13 PM James Mosteller, The Foundation for Florida's Future waives in support
12:14:13 PM B.D. Jogerst, Associated Industries of Florida waives in support
12:14:24 PM Speaker Damaris Allen, FL PTA in support
12:15:24 PM Speaker Charlie Dudley, Florida Internet and Television Association in support
12:15:53 PM Question from Senator Berman
12:16:06 PM Response from Mr. Dudley
12:17:04 PM Comments from Senator Berman
12:17:13 PM Speaker Ryan Matthews, FL Municipal Electric Association in opposition
12:20:27 PM Comments from Chair Rodriguez
12:20:39 PM Senator Jones in debate
12:21:22 PM Senator Berman in debate
12:23:34 PM Senator Burgess in closure
12:23:41 PM Roll call by CAA
12:23:47 PM CS/SB 1592 reported favorably
12:24:04 PM Introduction of Tab 2, CS/SB 908 by Chair Rodriguez
12:24:15 PM Explanation of CS/SB 908, Strong Families Tax Credit by Senator Rodrigues
12:25:49 PM Comments from Chair Rodriguez
12:25:53 PM Introduction of Amendment Barcode 482760 by Chair Rodriguez
12:25:57 PM Explanation of Amendment by Senator Rodrigues
12:26:19 PM Explanation of Amendment Barcode 717216 by Senator Cruz
12:26:55 PM Comments from Chair Rodriguez
12:27:04 PM Senator Rodrigues in support of Amendment
12:27:51 PM Amendment-to-Amendment adopted
12:28:09 PM Comments from Chair Rodriguez
12:28:21 PM Closure waived
12:28:24 PM Amendment adopted
12:28:30 PM Megan Rose, Better Together waives in support
12:28:43 PM Closure waived
12:28:45 PM Roll call by CAA
12:28:49 PM CS/CS/SB 908 reported favorably
12:29:04 PM Introduction of Tab 4, SB 144 by Chair Rodriguez
12:29:08 PM Explanation of SB 1444, Florida Small Manufacturing Business Recovery Act by Senator Wright
12:29:53 PM Introduction of Amendment Barcode 779020 by Chair Rodriguez
12:29:57 PM Explanation of Amendment (stopped due to time allotted for meeting running out)
12:30:17 PM Meeting adjourned