HOUSE OF REPRESENTATIVES
COMMITTEE ON
Finance and Taxation
FINAL ANALYSIS

BILL #: HB 1947 (PCB FT 99-06)

RELATING TO: Tax Administration

SPONSOR(S): Committee on Finance and Taxation and Representatives Albright, Logan, Fasano, and others.

COMPANION BILL(S): HB 65, HB 693, SB 172, HB 1725 (compare)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) FINANCE AND TAXATION YEAS 16 NAYS 0

I. FINAL ACTION STATUS:

The bill passed the House: 118 yeas; 1 Nay.
The bill failed to pass the Senate.
Comparable bill passed; refer to CS/SB 172 (Ch. 99-239).

II. SUMMARY:

This bill provides that interest shall be paid on refunds of tax overpayments, taxes paid in error, or payment of taxes not due. Interest shall not commence until 90 days after a complete refund application has been filed. If an audit of the claim is necessary, interest shall not commence until that audit is final. The rate of interest will be the same as the rate currently paid on corporate income tax refunds except that the rate shall not exceed 11%. The bill provides that the interest applicable to most tax payment deficiencies will be calculated the same way as the interest rate applied to corporate income tax delinquencies. The rate will be based on the prime rate and will be adjusted every six months.

The bill raises the threshold for determining businesses that must pay estimated sales taxes from $100,000 to $200,000 in sales tax liability for the most recently completed state fiscal year. In addition, it provides that the due date be changed from the 20th to the 28th of each month for those firms that continue to pay estimated sales taxes.

The bill will have a negative fiscal impact on tax revenues of $67.6 M in FY 1999-2000 and a loss of $44.5 M in FY 2000-2001.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, Florida taxpayers must pay interest on delinquent tax payments. There is no provision requiring the state to pay taxpayers interest on late refunds except corporate income taxpayers. The federal government pays interest on late refunds (*see* Internal Revenue Code § 6611). Interest of 1% a month or 12% a year is applied to most delinquent taxes in Florida. The interest rate applied to corporate income taxes is a floating rate tied to the prime rate offered by banks.

Section 212.11(1)(a) F.S., read in conjunction with Section 212.11(4)(a), F.S., requires a sales tax dealer who in the preceding state fiscal year paid sales/use tax in an amount equal to or greater than $100,000 to pay an estimated tax liability. The sales tax dealer must use one of the following methods to calculate the estimated tax liability:

- sixty-six percent of the current month's liability pursuant to this part as shown on the tax return,
- sixty-six percent of the tax reported on the tax return pursuant to this part by a dealer for the taxable transactions occurring during the corresponding month of the preceding calendar year, or
- sixty-six percent of the average tax liability pursuant to this part for those months during the preceding calendar year in which the dealer reported taxable transactions.

The difference between the estimated tax paid and the actual amount of tax collected is due by the 1st of the month after it is collected and must be remitted by the 20th day of the month after the tax is collected.

If the dealer paid less than $100,000 in sales tax in the preceding state fiscal year, no estimated tax is due. Sales tax collected is due by the 1st of the month after it is collected and must be remitted by the 20th day of the month after the tax is collected.

Under present law a sales tax dealer who paid $100,000 or more in sales tax and who is engaged in the business of selling boats, motor vehicles, or aircraft must pay estimated sales tax using one of the methods described above.

B. EFFECT OF PROPOSED CHANGES:

The bill provides that interest shall be paid on refunds of tax overpayments, taxes paid in error, or payment of taxes not due. Interest shall not commence until 90 days after a complete refund application has been filed. If an audit of the claim is necessary, interest shall not commence until that audit is final. The rate of interest will be the same as the rate currently paid on corporate income tax refunds except that the rate shall not exceed 11%. The bill provides that the interest applicable to most tax payment deficiencies be calculated the same as the interest rate applied to corporate income tax delinquencies. The rate will be based on the prime rate and will be adjusted every six months.

The bill raises the threshold for determining businesses that must pay estimated sales taxes from $100,000 to $200,000 in sales tax liability for the most recently completed state fiscal year. In addition, it provides that the due date be changed from the 20th to the 28th of each month for those firms that continue to pay estimated sales taxes.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

   a. Does the bill create, increase or reduce, either directly or indirectly:

      (1) any authority to make rules or adjudicate disputes?

         No

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

Yes. The bill increases the entitlement to interest on late tax refunds to all taxpayers; current law only grants such interest to corporate taxpayers.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

Yes.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

   a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

      N/A

   b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

      No.

5. Family Empowerment:

   a. If the bill purports to provide services to families or children:

      (1) Who evaluates the family's needs?

         N/A

      (2) Who makes the decisions?

         N/A

      (3) Are private alternatives permitted?

         N/A

      (4) Are families required to participate in a program?

         N/A

      (5) Are families penalized for not participating in a program?

         N/A

   b. Does the bill directly affect the legal rights and obligations between family members?

      N/A

   c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

      (1) parents and guardians?

         N/A

      (2) service providers?

         N/A

      (3) government employees/agencies?

         N/A

D. STATUTE(S) AFFECTED:

Sections 212.11, 212.12, 212.04, 212.15, 213.235, 213.255, 198.15, 198.155, 198.16, 198.18, 199.282, 201.17, 203.06, 206.44, 207.007, 211.076, 211.33, 220.807, and 624.5092, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 212.11, F.S., raising the threshold for determining businesses that must pay estimated sales taxes from $100,000 to $200,000 in sales tax liability for the most recently completed state fiscal year. In addition, it provides that the due date be changed from the 20th to the 28th of each month for those firms that continue to pay estimated sales taxes.

Section 2 amends s. 212.04(4), F.S., to conform.

Section 3 amends s. 212.15(1), F.S., to conform.

Section 4 creates s. 213.235, F.S., to set the interest rate applicable to tax payment deficiencies at the adjusted prime rate. The rate is to be adjusted every six months. This change extends the same interest rate currently paid on corporate income tax deficiencies to all taxes enumerated in s. 213.05, F.S. Currently, except for the corporate income tax, most taxes carry an interest rate of 1% per month or 12% annually.

Section 5 creates s. 213.255, F.S., to provide that interest shall be paid on refunds of tax overpayments, taxes paid in error, or payment of taxes not due. Interest shall not commence until 90 days after a complete refund application has been filed. This section lists the requirements of a complete application. The department is required to examine the application within 30 days of receipt of the application. If an audit of the claim is necessary, interest shall not commence until that audit is final. The rate of interest will be the same as the rate paid on delinquent taxes (under Section 1), except that the rate shall not exceed 11%.

Sections 6-12, 14, 21-24, and 30 amend various sections to provide that the interest due on delinquent taxes be accrued at the rate set forth in s. 213.235.

Sections 13, 15-20, and 25-28 reenact several sections for technical purposes.

Section 29 amends s. 220.807, F.S., to provide that the interest rate applicable to delinquent corporate income taxes shall be calculated pursuant to s. 213.235, F.S. This does not change the way interest on corporate income tax delinquencies is calculated; it moves the language from the corporate income tax chapter (220) to the general taxation chapter (213).

Section 31 provides that the Department of Revenue shall report to the Legislature by January 1, 2000, with recommendations for the efficient implementation of this act and methods to minimize its fiscal impact.

Section 32 provides an effective date of July 1, 1999.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

	FY 1999-2000
GR	($20.7)
Various Trusts:	0.7
Total	**($20.0)**

2. Recurring Effects:

Revenues (in millions):	FY 1999-2000	FY 2000-01
General Revenue Fund	($36.1)	($37.1)
Various Trust Funds	($2.4)	($2.4)
Total	**($38.5)**	**($39.5)**

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Revenues (in millions):	FY 1999-2000	FY 2000-01
General Revenue Fund	($56.8)	($37.1)
Various Trust Funds	($1.7)	($2.4)
Total State Impact	**($58.5)**	**($39.5)**

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Tax Collector, Local Government Half Cent & Local Option Sales Tax	**($4.3)**

2. Recurring Effects:

Revenues (in millions):

	FY 1999-2000	FY 2000-01
Tax Collector, Local Government Half Cent & Local Option Sales Tax	($4.8)	(5.0)
Total local government impact:	**($9.1)**	**($5.0)**

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Individuals will receive or retain certain monies that the government would have assessed as taxes. Also, increasing the dollar threshold for businesses that pay estimated sales tax relieves about 50% (6,000 out of 12,000) of these businesses of a financial and administrative burden.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

None.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VIII. SIGNATURES:

COMMITTEE ON FINANCE AND TAXATION:

Prepared by:	Staff Director:
Carol L. Dickson-Carr	Alan Johansen

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON Finance and Taxation:

Prepared by:	Staff Director:
Carol Dickson-Carr	Alan Johansen