

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1366

SPONSOR: Fiscal Resource Committee and Senator Klein

SUBJECT: Tax Administration

DATE: March 29, 2000

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Fournier</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

CS/SB 1366 addresses aspects of taxpayer contest proceedings regarding assessments made under Chapter 212 by the Department of Revenue.

This bill amends s. 120.80, F.S., to provide that attorneys fees shall be awarded in cases where the court finds that the Department improperly rejected or modified the conclusions of law in a recommended order issued by an administrative law judge.

This bill also amends s. 231.21, F.S., to provide that if the Department of Revenue does not issue a notice of decision within 150 days, additional interest shall not accrue until the date the Department of Revenue issues its notice of decision. If the taxpayer requested an extension of time, however, interest shall continue to accrue.

This bill takes effect upon becoming law.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 120.80, 231.21.

II. Present Situation:

Section 120.80(14), F.S., provides exceptions to and special requirements for administrative hearings by the Department of Revenue. Section 120.80(14)(b), F.S., provides special requirements for taxpayer contest proceedings, including designation of respondent agency depending on the tax assessment contested, burden of proof, payment of uncontested tax amounts prior to filing of petition, and award of attorney's fees and costs in certain instances.

The Department of Revenue reports that for the period 1997-1999, the Division of Administrative Hearings rendered 60 recommended orders on taxpayer contests of tax assessments imposed by the department. The department reports that it accepted 52 of the recommended orders and

modified four. Of the remaining cases the department settled two cases and dismissed one; the division relinquished jurisdiction pursuant to Fla. Stat. chapter 120 on one case to the department for disposition

Section 213.21(1), F.S., provides authority to the Department of Revenue to establish an informal conference procedure to resolve disputes relating to assessment of taxes, interest, penalties and the denial of refunds, and for informal hearings under ss. 120.569 and 120.57(2), F.S.

The department has a performance measurement of the time from the postmark of a taxpayer contest notice to the time of the issuance of the notice of decision. For fiscal years 1998 and 1999, the department's goal was an average of 175 days from date of receipt to notice of issuance. The department reports that in FY 1998, the actual average was 174 days and for FY 1999, 165 days. Beginning in FY 2000, the 175 days goal is for the average number of days from date of postmark to the date of issuance of notice of decision. For the first five months of FY 2000, the department reports an actual average of 163.

III. Effect of Proposed Changes:

This bill amends s. 120.80, F.S., to provide that attorneys fees shall be awarded in cases where the court finds that the Department improperly rejected or modified the conclusions of law in a recommended order issued by an administrative law judge.

This bill also amends s. 231.21, F.S., to provide that if the Department of Revenue does not issue a notice of decision within 150 days, additional interest shall not accrue until the date the Department of Revenue issues its notice of decision. If the taxpayer requested an extension of time, however, interest shall continue to accrue.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not reviewed this bill, but a preliminary review indicates that it may cost the state up to \$1 million in interest on sales tax assessments, given current department resources.

B. Private Sector Impact:

Certain taxpayers with delinquent sales tax payments will face reduced interest charges. The small number of taxpayers who prevail in appeals to Department of Revenue actions concerning sales tax assessments will be reimbursed for their costs and attorney's fees.

C. Government Sector Impact:

The department has a performance measurement for responding to taxpayers who contest tax assessments. Beginning in FY 2000, the goal is 175 days for the average number of days from date of postmark to the date of issuance of notice of decision. For the first five months of FY 2000, the department reports an actual average of 163. In effect, this bill imposes a shorter response time for sales tax assessments, and will result in lower state revenue due to lost interest payments unless more resources are allocated to processing taxpayer contest notices.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.