By Representatives Ryan, Hafner, Turnbull, Henriquez, Boyd, Ogles, Ritchie, Levine, Betancourt, Cantens, Prieguez, Rojas and Stansel

1   A bill to be entitled

2   An act relating to tax administration; amending

3   s. 120.80, F.S.; providing for issuance of a

4   final order by the administrative law judge

5   when a taxpayer contests an assessment of tax,

6   penalty, or interest or the denial of a refund

7   with respect to any tax imposed under ch. 212,

8   F.S., under the Administrative Procedure Act;

9   amending s. 213.21, F.S.; specifying the time

10   period within which the Department of Revenue

11   shall issue a notice of decision when a

12   taxpayer contests such an assessment, penalty,

13   or interest or refund denial using informal

14   conference procedures; providing an effective

15   date.

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

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19   Section 1. Paragraph (b) of subsection (14) of section

20   120.80, Florida Statutes, is amended to read:

21   120.80 Exceptions and special requirements;

22   agencies.--

23   (14) DEPARTMENT OF REVENUE.--

24   (b) Taxpayer contest proceedings.--

25   1. In any administrative proceeding brought pursuant

26   to this chapter as authorized by s. 72.011(1), the taxpayer

27   shall be designated the "petitioner" and the Department of

28   Revenue shall be designated the "respondent," except that for

29   actions contesting an assessment or denial of refund under

30   chapter 207, the Department of Highway Safety and Motor

31   Vehicles shall be designated the "respondent," and for actions

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1 contesting an assessment or denial of refund under chapters

2 210, 550, 561, 562, 563, 564, and 565, the Department of

3 Business and Professional Regulation shall be designated the

4 "respondent."

5   2. In any such administrative proceeding, the

6 applicable department's burden of proof, except as otherwise

7 specifically provided by general law, shall be limited to a

8 showing that an assessment has been made against the taxpayer

9 and the factual and legal grounds upon which the applicable

10 department made the assessment.

11   3.a. Prior to filing a petition under this chapter,

12 the taxpayer shall pay to the applicable department the amount

13 of taxes, penalties, and accrued interest assessed by that

14 department which are not being contested by the taxpayer.

15 Failure to pay the uncontested amount shall result in the

16 dismissal of the action and imposition of an additional

17 penalty of 25 percent of the amount taxed.

18   b. The requirements of s. 72.011(2) and (3)(a) are

19 jurisdictional for any action under this chapter to contest an

20 assessment or denial of refund by the Department of Revenue,

21 the Department of Highway Safety and Motor Vehicles, or the

22 Department of Business and Professional Regulation.

23   4. Except as provided in s. 220.719, further

24 collection and enforcement of the contested amount of an

25 assessment for nonpayment or underpayment of any tax,

26 interest, or penalty shall be stayed beginning on the date a

27 petition is filed. Upon entry of a final order, an agency may

28 resume collection and enforcement action.

29   5. The prevailing party, in a proceeding under ss.

30 120.569 and 120.57 authorized by s. 72.011(1), may recover all

31 legal costs incurred in such proceeding, including reasonable

1 attorney's fees, if the losing party fails to raise a

2 justiciable issue of law or fact in its petition or response.

3   6. When a taxpayer contests an assessment of tax,

4 penalty, or interest or the denial of a refund with respect to

5 any tax imposed under chapter 212 in a proceeding brought

6 pursuant to this chapter, at the conclusion of the proceeding

7 the administrative law judge shall issue a final order.

8   Section 2. Paragraph (d) is added to subsection (1) of

9 section 213.21, Florida Statutes, to read:

10   213.21 Informal conferences; compromises.--

11   (1)(a) The Department of Revenue may adopt rules for

12 establishing informal conference procedures within the

13 department for resolution of disputes relating to assessment

14 of taxes, interest, and penalties and the denial of refunds,

15 and for informal hearings under ss. 120.569 and 120.57(2).

16   (b) The statute of limitations upon the issuance of

17 final assessments shall be tolled during the period in which

18 the taxpayer is engaged in a procedure under this section.

19   (c) During procedures under this section, the taxpayer

20 has the right to be represented at the taxpayer's cost and to

21 record procedures electronically or manually at the taxpayer's

22 cost.

23   (d) When a taxpayer files a written protest with the

24 department and informal conference procedures are initiated

25 under this section for the resolution of a dispute relating to

26 assessment of taxes, interest, or penalties or the denial of a

27 refund with respect to any tax imposed under chapter 212, the

28 department shall issue its notice of decision within 150 days

29 after the written protest is filed.

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

31 law.

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2   HOUSE SUMMARY

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    Provides for issuance of a final order, rather than a
4   recommended order, by the administrative law judge when a
    taxpayer contests an assessment of tax, penalty, or
5   interest or the denial of a refund with respect to any
    tax imposed under ch. 212, F.S., under the Administrative
6   Procedure Act. Specifies the time period within which the
    Department of Revenue shall issue a notice of decision
7   when a taxpayer contests such an assessment, penalty, or
    interest or refund denial using informal conference
8   procedures.

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