

## **FINAL BILL ANALYSIS**

**BILL #:** CS/HB 641

**FINAL HOUSE FLOOR ACTION:**

88 Y's 30 N's

**SPONSOR:** Rep. Mayfield

**GOVERNOR'S ACTION:** Approved

**COMPANION BILLS:** None

---

## **SUMMARY ANALYSIS**

CS/HB 641, as a conference report, was passed by the House on May 6, 2011, and by the Senate on May 6, 2011. The Governor approved the bill on May 31, 2011, Chapter 2011-86, Laws of Florida, and it took effect upon becoming a law.

This bill contains revisions to general tax administration and tax enforcement provisions related to the Department of Revenue (Department).

### **Estate Tax Filing Requirement**

This bill extends until December 31, 2012, the period for which Florida estates with zero estate tax liability do not need to file a return with the Department.

### **Beverage and Tobacco Wholesaler Reports**

This bill requires manufacturers, wholesalers, and distributors of alcoholic beverage or tobacco products to file an annual information report that includes distributor and retailer business information including, but not limited to, product types and net monthly sales sold to individual retailers. The information report provided will assist in the Department's enforcement of the state's sales tax collections.

Staff estimates that the provisions within this bill will have an indeterminate positive impact on state and local government revenues, mainly sales tax.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Current Situation

##### **Estate Tax Filing Requirement**

Under current law, Florida imposes an estate tax equal to the maximum credit permitted by the federal government. In 2004, the federal government repealed its credit, but made the repeal subject to a sunset on December 31, 2010. Through federal government's Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the sunset has effectively been extended until December 31, 2012. The Florida legislature passed chapter 2007-106, Laws of Florida, which provided a filing limitation permitting Florida estates to forego filing a Florida estate tax return if there was no estate tax liability. The law further provided that the filing limitation was automatically repealed on December 31, 2010.

##### **Beverage and Tobacco Wholesaler Reports**

The Department has recognized recurring noncompliance with tax laws in some retail businesses with substantial alcohol and tobacco sales. In order to assist in compliance efforts, the Department periodically requests beverage and tobacco distribution information from sellers (manufacturers, wholesalers, and distributors) in order to compare that information, with what a retail establishment is reporting to the Department as being sold. Many sellers provide the information to the Department voluntarily, however others require the Department to obtain a subpoena in order to collect the requested information. Collecting the requested information through the legal process can be costly and cumbersome to the Department.

#### Effect of Proposed Changes

##### **Estate Tax Filing Requirement**

This bill amends s. 198.13(4)(b), F.S., extending until December 31, 2012, the period for which Florida estates with zero estate tax liability do not need to file a return with the Department.

##### **Beverage and Tobacco Wholesaler Reports**

This bill creates s. 212.133, F.S., requiring sellers of alcoholic beverage or tobacco products to file electronically an annual information report. This annual report will include required seller and retailer business information, including, but not limited to, product types and net monthly sales sold to each retailer. The annual information report will contain business information from the period beginning July 1 through June 30. If a seller fails to provide the annual report by September 30 each year a \$1,000 penalty is imposed per month for every month the report is not provided, up to a maximum of \$10,000. The information report provided will assist in the Department's enforcement of the state's sales tax collections.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

Staff estimates that improvements to enforcement due to the provisions within this bill will have an indeterminate positive impact on state revenues, mainly sales and use tax.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

Staff estimates that improvements to enforcement due to the provisions within this bill will have an indeterminate positive impact on local government revenues, mainly shared state sales tax and local option sales taxes.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

None.