

By the Committees on Fiscal Policy; and Finance and Tax; and
Senators Hays and Gaetz

594-04446-15

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1 A bill to be entitled
2 An act relating to voluntary contributions for public
3 education facilities; creating s. 215.165, F.S.;
4 authorizing a participating business that registers
5 with the Department of Revenue to solicit and collect
6 contributions from its customers for the construction
7 and maintenance of public education facilities;
8 providing registration requirements; requiring the
9 department to issue a certificate and taxpayer
10 identification number to a participating business;
11 requiring a participating business to file a return
12 and remit contributions to the department within a
13 specified timeframe; providing that contributions
14 become state funds at the moment of collection by a
15 participating business; requiring the department to
16 deposit contributions into the Public Education
17 Capital Outlay and Debt Service Trust Fund;
18 authorizing the department to adopt rules establishing
19 forms and procedures; providing that certain
20 provisions of law regarding the authority to audit and
21 make assessments and the maintenance of books and
22 records apply to the collection and remittance of
23 voluntary contributions; providing that certain
24 provisions of law regarding interest and penalties,
25 estimated tax liability, and a dealer's credit for
26 collections do not apply to such collections and
27 remittances; authorizing the department to conduct an
28 audit of voluntary contributions or undertake
29 enforcement proceedings under certain circumstances;

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30 requiring the department to provide written
31 notification to a participating business if the
32 department finds during an audit that voluntary
33 contributions were not remitted; providing for the
34 remittance of unremitted contributions without penalty
35 or interest within a specified period; providing for
36 penalties and interest on contributions that are not
37 remitted within the specified period; authorizing
38 participating businesses to deduct a specified
39 percentage, up to a certain maximum amount, of the
40 voluntary contributions collected to compensate
41 themselves for certain expenses; amending s. 1013.65,
42 F.S.; including voluntary contributions as a source of
43 funding for the Public Education Capital Outlay and
44 Debt Service Trust Fund; authorizing the executive
45 director of the department to adopt emergency rules;
46 providing that such rules are effective for a
47 specified period; providing for expiration; providing
48 an appropriation; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Section 215.165, Florida Statutes, is created to
53 read:

54 215.165 Voluntary contributions for public education
55 facilities.—A business that registers with the Department of
56 Revenue as a participating business may solicit and collect
57 voluntary contributions from its customers for the construction
58 and maintenance of public education facilities. Such

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59 contributions may be solicited and collected through any means,
60 including point-of-sale transactions and monthly customer
61 invoices.

62 (1) To register as a participating business, the business
63 must provide the department with its name, physical address,
64 mailing address, telephone number, e-mail address, and federal
65 employer identification number. Upon receipt of this
66 information, the department shall issue to the participating
67 business a certificate indicating that the business is
68 registered with the department for the collection of voluntary
69 contributions and providing a taxpayer identification number to
70 be used by the business for returns under this section. The
71 department may issue this certificate electronically or by
72 United States mail.

73 (2) By the 20th day of each month that immediately follows
74 a month in which voluntary contributions were collected, a
75 participating business shall file a return with, and remit the
76 contributions collected during the prior month to, the
77 department. If the 20th day is a Saturday, Sunday, or legal
78 holiday, the return and voluntary contributions are due on the
79 next business day. A participating business may file a return
80 that is initiated by electronic means and may remit voluntary
81 contributions by electronic funds transfer. A return is not
82 required for a period in which voluntary contributions were not
83 collected. A participating business may correct an error in a
84 prior remittance by adjusting the amount remitted on a future
85 return.

86 (3) (a) A participating business shall provide the following
87 information on each return:

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88 1. The information required under subsection (1).

89 2. The taxpayer identification number issued by the
90 department.

91 3. The amount of voluntary contributions collected and the
92 amount of any adjustment to such contributions.

93 4. The amount of voluntary contributions being remitted.

94 (b) If the department receives a return from a business
95 that has not registered as a participating business, the
96 department shall deposit the voluntary contributions pursuant to
97 subsection (4) and shall register the business as a
98 participating business with the information included on the
99 return.

100 (4) Voluntary contributions become state funds at the
101 moment of collection by a participating business and are not
102 receipts of the participating business. The department shall
103 deposit voluntary contributions remitted under this section into
104 the Public Education Capital Outlay and Debt Service Trust Fund.

105 (5) The department may adopt rules to establish forms and
106 procedures for filing returns and remitting voluntary
107 contributions, which may include the use of existing or new
108 forms.

109 (6) The provisions of chapter 212 regarding the authority
110 to audit and make assessments and the maintenance of books and
111 records apply to the collection and remittance of voluntary
112 contributions by participating businesses under this section.
113 The provisions of chapters 212 and 213 regarding interest and
114 penalties, estimated tax liability, and a dealer's credit for
115 collecting taxes or fees do not apply to such collections and
116 remittances, except as provided in paragraphs (a) and (b). The

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117 department may not conduct an audit of voluntary contributions
118 or undertake enforcement proceedings under this subsection
119 unless the participating business is otherwise undergoing an
120 audit for another area of tax.

121 (a) If the department engages in an audit of a
122 participating business under this subsection and finds that
123 voluntary contributions received by the participating business
124 were not remitted to the department, the department shall
125 provide written notification to the participating business of
126 the deficiency. The participating business may remit the
127 unremitted contributions to the department at any time up to 90
128 days after the department provides written notification of the
129 deficiency without incurring any penalty or interest on the
130 unremitted contributions. If the unremitted contributions are
131 not provided to the department for deposit within the 90-day
132 period, the unremitted amount is subject to the penalty imposed
133 under s. 212.12 and interest imposed under s. 213.235, beginning
134 with the 91st day and continuing until the collected amounts are
135 remitted. For purposes of this subsection, the administrative
136 collection processing fee imposed under s. 213.24 does not
137 apply.

138 (b) For the purpose of compensating participating
139 businesses for the maintenance of books and records, the filing
140 of returns, and the proper accounting and remitting of
141 contributions, participating businesses collecting voluntary
142 contributions under this section may deduct 2.5 percent of the
143 first \$1,200 in voluntary contributions remitted on each return
144 to the department, up to a maximum deduction of \$30 per return.

145 Section 2. Paragraph (a) of subsection (2) of section

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146 1013.65, Florida Statutes, is amended to read:

147 1013.65 Educational and ancillary plant construction funds;
148 Public Education Capital Outlay and Debt Service Trust Fund;
149 allocation of funds.—

150 (2) (a) The Public Education Capital Outlay and Debt Service
151 Trust Fund shall be comprised of the following sources, which
152 are hereby appropriated to the trust fund:

153 1. Proceeds, premiums, and accrued interest from the sale
154 of public education bonds and that portion of the revenues
155 accruing from the gross receipts tax as provided by s. 9(a)(2),
156 Art. XII of the State Constitution, as amended, interest on
157 investments, and federal interest subsidies.

158 2. General revenue funds appropriated to the fund for
159 educational capital outlay purposes.

160 3. All capital outlay funds previously appropriated and
161 certified forward pursuant to s. 216.301.

162 4. Deposits from voluntary contributions collected pursuant
163 to s. 215.165.

164 Section 3. (1) The executive director of the Department of
165 Revenue is authorized, and all conditions are deemed to be met,
166 to adopt emergency rules pursuant to s. 120.54(4), Florida
167 Statutes, for the purpose of implementing this act.

168 (2) Notwithstanding any other provision of law, emergency
169 rules adopted pursuant to subsection (1) are effective for 6
170 months after adoption and may be renewed during the pendency of
171 procedures to adopt permanent rules addressing the subject of
172 the emergency rules.

173 (3) This section expires July 1, 2018.

174 Section 4. For the 2015-2016 fiscal year, the sums of

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175 \$59,421 in recurring funds and \$136,065 in nonrecurring funds
176 are appropriated from the General Revenue Fund to the Department
177 of Revenue for the purpose of implementing the provisions of
178 this act.

179 Section 5. This act shall take effect January 1, 2016.