

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 7053      PCB WMC 19-01      Taxation Transparency  
**SPONSOR(S):** State Affairs Committee, Appropriations Committee, Ways & Means Committee, Avila  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee	14 Y, 4 N	Aldridge	Langston
1) Appropriations Committee	21 Y, 9 N, As CS	Hawkins	Pidgeon
2) State Affairs Committee	14 Y, 6 N, As CS	Darden	Williamson

### SUMMARY ANALYSIS

The bill renames select state government levies as taxes and requires local governments to rename select local government levies as taxes under specific circumstances.

The bill renames the following state revenues as taxes:

- Cigarette and Other Tobacco Surcharges;
- Various Business Filing Fees;
- Rental Car Surcharge;
- Waste Tire and Lead-Acid Battery Fees;
- Motor Vehicle Initial Registration Fee;
- Hospital Annual Assessments;
- Select Auto Title & Lien Fees;
- Select Driver License Fees; and
- Select Motor Vehicle Registration Surcharges.

Regarding local government levies, the bill requires, on a prospective basis, any new impositions or rate increases, or proposed impositions or rate increases, in the following levies by counties, municipalities, or special districts to be titled as and represented to the public as “taxes” as follows:

- A new or increased special assessment or non-ad valorem assessment must be titled and represented to the public as a “special benefit tax”;
- A new or increased impact fee or mobility fee must be titled and represented to the public as a “development impact tax”;
- A new or increased franchise fee must be titled and represented to the public as a “franchise tax”; and
- A new or increased charge to pay the cost of regulation must be titled and represented to the public as a tax in a manner reasonably consistent with the type of regulation and charge in question.

The bill expressly provides that it does not repeal or otherwise affect, amend, or alter a county or municipality’s home rule authority under the State constitution or other provisions of law to impose the affected local government levies. Similarly, it provides that a special district’s authority to levy special assessments under other provisions of law is not affected, amended, or altered by the bill.

The effective date of the bill is January 1, 2020.

The bill is expected to result in some nonrecurring expenses to some state government agencies, the amount of which is currently unknown. See Fiscal Comments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

Governments obtain revenue necessary to fund their operations and pay necessary expenses from a variety of sources. The nature of these revenue sources and the purpose for which such revenue may be used varies. Among the sources of governmental revenue are taxes, various fees and assessments, charges for goods or services, fines and penalties, gifts, grants and intergovernmental transfers and borrowing.

In an overarching sense, all of these sources of revenue share some common attributes. They are all sources of revenue available to governments to be spent for their operations. They all represent a diversion of resources from the private sector to the public sector of the economy. There are also important legal, economic and practical differences between these revenue sources and the purposes for which the funds that they generate may be used. For example, some levies are often government exactions of money to pay for governmental goods or services that are either unrelated or only distantly related to the activity, person, or entity being taxed. Alternatively, there may be some direct “benefit” to the payer, but there is limited or no ability to avoid the levy. The lines differentiating between these revenue sources are not always clear.

The bill would rename select state and local levies as taxes, instead of their current titles as fees, surcharges, assessments or similar terms. It would not affect the actual legal nature of such levies.<sup>1</sup>

##### **State Government Revenues**

###### *Current Situation*

Approximately 55 percent<sup>2</sup> of state revenues are levies variously titled as taxes, surtaxes, fees, charges, surcharges, assessments, contributions, and similar other descriptions. Among these levies are:

- Cigarette and Other Tobacco Surcharges;
- Business Filing Fees;
- The Rental Car Surcharge;
- Waste Tire and Lead-Acid Battery Fees;
- The Motor Vehicle “Initial Registration Fee;”
- Hospital and Health Care Entity Assessments;
- Select Auto Title and Lien Fees;
- Select Driver License Fees; and
- Select Motor Vehicle Registration Surcharges.

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<sup>1</sup> See *City of De Land v. Fla. Pub. Serv. Co.*, 119 Fla. 819, 823, (1935) (“What controls our judgment in cases...involving the attempted imposition of taxes of the character here...is the underlying reality of the tax ordinance rather than the form or label of the challenged tax.”); *City of Gainesville v. State*, 863 So. 2d 138, 144-45 (Fla. 2003) (when determining whether a charge is an assessment or fee, the name of the charge is only one factor to consider among a list of factors).

<sup>2</sup> See Florida Revenue Estimating Conference, *Long-Term Revenue Analysis FY 1970-71 Through FY 2027-28, Volume 34, Based on the Conference Series held November 5, 2018, through December 21, 2018*, 57-80 (<http://edr.state.fl.us/Content/conferences/longtermrevenue/2018longtermrevenueanalysis.pdf> (last visited Mar. 22, 2019) (providing a list of total direct revenue by detailed fund type) (hereinafter Long Term Revenue Analysis).

## Cigarette and Other Tobacco Surcharges

Chapter 210, F.S., governs the assessment of taxes and surcharges on cigarettes and other tobacco products produced or imported in Florida. The wholesale dealer pays these taxes and surcharges at the time of the first sale in this state.<sup>3</sup> Currently, a basic pack of cigarettes is subject to an excise tax in Florida at a rate of \$0.339 cents per pack of 20 standard cigarettes; the rate varies proportionately for non-standard cigarettes or packs.<sup>4</sup> Additionally, a \$1.00 surcharge per pack of common-size cigarettes is imposed, with rates varying proportionately for cigarettes and packs of non-standard size.<sup>5</sup> For other tobacco products, the excise tax rate is 25 percent of the wholesale price,<sup>6</sup> with an additional surcharge of 60 percent of the wholesale price.<sup>7</sup>

The revenues from the surcharges on cigarettes and other tobacco products are distributed as follows:

- General Revenue Fund, to cover the cost of the General Revenue Service Charge (8 percent); and
- Health Care Trust Fund within the Agency for Health Care Administration (92 percent).<sup>8</sup>

In FY 2019-20, the surcharges on cigarettes and other tobacco products are estimated to generate \$814.8 million, while excise taxes on cigarettes and other tobacco products are forecast to generate \$295.3 million.<sup>9</sup>

## Business Filing Fees

Florida law<sup>10</sup> requires certain documents to be filed with the Division of Corporations of the Department of State in order for a business to be organized as a corporation, partnership, or other commercial entity. Some of the documents that a business must file include an annual report, its initial filings (such as articles of incorporation or organization and registered agent designation), and filings related to certain business transactions, such as a certificate or articles of merger and amendments of articles of incorporation. There is a great deal of variation in the cost associated with filing these forms depending on the form and the type of business entity filing the form. The following are business filing fees organized by type of business entity:

### Corporations for Profit<sup>11</sup>

In order to organize as a corporation for profit, the person wishing to organize must file articles of incorporation at a cost of \$35 and registration of a designated agent (recipient of service of process) at a cost of \$35, for a total of \$70 in startup costs. Each year the corporation must file an annual report by May 1. The annual report fee is \$61.25. In addition to the annual report fee, the corporation must annually remit a supplemental corporate fee for \$88.75.<sup>12</sup> The annual fees total \$150. Most other corporation filings cost \$35.

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<sup>3</sup> Section 210.30, F.S.

<sup>4</sup> Section 210.02(1), F.S.

<sup>5</sup> Section 210.011, F.S.

<sup>6</sup> Section 210.30, F.S.

<sup>7</sup> Section 210.276, F.S.

<sup>8</sup> In accordance with s. 408.16(4), F.S., revenues received from the cigarette and other tobacco products surcharges are deposited in the Health Care Trust Fund shall be for the use of the Agency for Health Care Administration in the performance of its functions and duties as provided by law, subject to the fiscal and budgetary provision of general law and the General Appropriations Act.

<sup>9</sup> Revenue Estimating Conference, Tobacco Tax and Surcharge Conference, February 2019.

<sup>10</sup> See e.g., ss. 607.0122, 607.193, 605.0213, 609.02, 617.0122, 620.1109, 620.81055, and 679.525, F.S.

<sup>11</sup> Section 607.0122, F.S.

<sup>12</sup> Section 607.193, F.S.

<b>Document</b>	<b>Fee</b>
Articles of incorporation	\$35.00
Application for registered name	\$87.50
Application for renewal of registered name	\$87.50
Statement of change of registered agent or registered office or both if not included on annual report	\$35.00
Designation of and acceptance by registered agent	\$35.00
Agent's statement of resignation from active corporation	\$87.50
Agent's statement of resignation from inactive corporation	\$35.00
Amendment of articles of incorporation	\$35.00
Restatement of articles of incorporation with amendment of articles	\$35.00
Articles of merger or share exchange for each party thereto	\$35.00
Articles of dissolution	\$35.00
Articles of dissolution	\$35.00
Articles of revocation of dissolution	\$35.00
Application for reinstatement following administrative dissolution	\$600.00
Application for certificate of authority to transact business in this state by a foreign corporation	\$35.00
Application for amended certificate of authority	\$35.00
Application for certificate of withdrawal by a foreign corporation	\$35.00
Annual report	\$61.25
Articles of correction	\$35.00
Application for certificate of status	\$8.75
Certificate of domestication of a foreign corporation	\$50.00
Certified copy of document	\$52.50
Serving as agent for substitute service of process	\$87.50
Supplemental corporate fee	\$88.75
Any other document required or permitted to be filed by this act	\$35.00

Limited Liability Companies<sup>13</sup>

In order to organize as a limited liability company (LLC), the person wishing to organize must file articles of organization at a cost of \$100 and registration of a designated agent at a cost of \$25, for a total of \$125 in startup costs. The cost for the annual report is \$50. The total annual fees, including the supplemental corporate fee, are \$138.75. Most other filings cost \$25.

<b>Document</b>	<b>Fee</b>
Furnishing a certified copy	\$30.00
Articles of corporation, articles of revocation of dissolution, or a foreign limited liability company's application for a certificate of	\$100.00

<sup>13</sup> Section 608.452, F.S.  
**STORAGE NAME:** h7053c.SAC  
**DATE:** 4/4/2019

Document	Fee
authority to transact business	
Certificate of merger of limited liability companies or other business entities per party (unless a specific fee is required in other applicable law)	\$25.00
Annual report	\$50.00
Application for reinstatement after an administrative or judicial dissolution or a revocation of authority to transact business	\$100.00
Certificate designating a registered agent or changing a registered agent	\$25.00
Registered agent's statement of resignation from active LLC	\$85.00
Registered agent's statement of resignation from dissolved LLC	\$25.00
Certificate of conversion of a LLC	\$25.00
Any other LLC document	\$25.00
Certificate of status	\$5.00

### Corporations Not for Profit<sup>14</sup>

In order to organize as a corporation not for profit, the person wishing to organize must file articles of incorporation at a cost of \$35 and registration of a designated agent at a cost of \$35, for a total of \$70 in startup costs. The cost of the annual report is \$61.25. Corporations not for profit are not subject to the supplemental corporate fee. Most other filings cost \$35.

Document	Fee
Articles of incorporation	\$35.00
Application for registered name	\$87.50
Application for renewal of registered name	\$87.50
Statement of change of registered agent or registered office or both if not included on annual report	\$35.00
Designation of and acceptance by registered agent	\$35.00
Agent's statement of resignation from active corporation	\$87.50
Agent's statement of resignation from inactive corporation	\$35.00
Amendment of articles of incorporation	\$35.00
Restatement of articles of incorporation with amendment of articles	\$35.00
Articles of merger or share exchange for each party thereto	\$35.00
Articles of dissolution	\$35.00
Articles of dissolution	\$35.00
Articles of revocation of dissolution	\$35.00
Application for reinstatement following administrative dissolution	\$175.00
Application for certificate of authority to transact business in this state by a foreign corporation	\$35.00

<sup>14</sup> Section 617.0122, F.S.  
**STORAGE NAME:** h7053c.SAC  
**DATE:** 4/4/2019

<b>Document</b>	<b>Fee</b>
Application for amended certificate of authority	\$35.00
Application for certificate of withdrawal by a foreign corporation	\$35.00
Annual report	\$61.25
Articles of correction	\$35.00
Application for certificate of status	\$8.75
Certified copy of document	\$52.50
Serving as agent for substitute service of process	\$87.50
Certificate of conversion of a limited agricultural association to be a domestic corporation	\$35.00
Any other document required or permitted to be filed by this act	\$35.00

### Limited Partnerships<sup>15</sup>

In order to organize as a limited partnership, the people wishing to organize must file a certificate of limited partnership at a cost of \$965 and designation of a registered agent at a cost of \$35, for total startup costs of \$1,000. The annual report fee is \$411.25. The total annual fee, including the supplemental corporate fee, is \$500. Most other filings cost \$52.50.

<b>Document</b>	<b>Fee</b>
Certified copy up to 50 pages (\$1.00 for each page over 50)	\$52.50
Original certificate of limited partnership	\$965.00
Original certificate for registration as a foreign limited partnership	\$965.00
Certificate of conversion	\$52.50
Certificate of merger	\$52.50
Reinstatement; for each calendar year the limited partnership was dissolved	\$500.00
Annual report	\$411.25
Certificate designating a registered agent	\$35.00
Certificate changing a registered agent or registered office address	\$35.00
Certificate resigning as a registered agent	\$87.50
Certificate of amendment or restatement of the certificate of limited partnership	\$52.50
Statement of termination	\$52.50
Notice of cancellation for foreign limited partnership	\$52.50
Certificate of status or authorization	\$8.75
Certificate of dissolution	\$52.50
Certificate of revocation of dissolution	\$52.50
Any other domestic or foreign limited partnership document	\$52.50

### General Partnerships<sup>16</sup>

<sup>15</sup> Section 620.1109, F.S.  
**STORAGE NAME:** h7053c.SAC  
**DATE:** 4/4/2019

In order to organize as a general partnership, the people wishing to organize must file a partnership registration statement at a cost of \$50. They do not need to register a designated agent. In the event that it is organized as a limited liability partnership, it must file an annual report at a cost of \$25. General partnerships are not subject to the supplemental corporate fee. Most other fees are \$25.

Document	Fee
Partnership registration statement	\$50.00
Statement of partnership authority	\$25.00
Statement of denial	\$25.00
Statement of dissociation	\$25.00
Statement of dissolution	\$25.00
Statement of qualification	\$25.00
Limited liability partnership annual report	\$25.00
Certificate of merger for each party thereto	\$25.00
Amendment to any statement or registration	\$25.00
Cancellation of any statement or registration	\$25.00
Certified copy of any recording or part thereof	\$52.50
Certificate of status	\$8.75
Certificate of conversion	\$25.00

In FY 2019-20, business filing fees are estimated to generate \$383.2 million,<sup>17</sup> all of which is deposited into General Revenue.

### Rental Car Surcharge

A \$2.00 per day rental car surcharge applies to the first 30 days, or portion of a day, a motor vehicle is continuously leased or rented in Florida to one person, even when the vehicle is licensed outside of Florida.<sup>18</sup>

A \$1.00 per usage rental car surcharge applies to the use of a motor vehicle by a member of a car-sharing service for a period of less than 24 hours.<sup>19</sup> If the member uses the motor vehicle for 24 hours or more in a single usage, the \$2.00 per day surcharge applies.

The rental car surcharge is imposed on the lease or rental of, or use under a car-sharing service membership of, motor vehicles designed to accommodate less than nine passengers. The surcharge does not apply to the lease or rental of motorcycles, mopeds, trucks, trailers, recreational vehicles, or van conversions.<sup>20</sup> The lease or rental is exempt from the surcharge when the purchaser issues a sales tax exemption certificate to lease or rent the motor vehicle exempt from sales tax.

The revenues from the rental car surcharge are distributed as follows:

- State Transportation Trust Fund (80 percent);
- Florida International Trade and Promotion Trust Fund (15.75 percent); and

<sup>16</sup> Section 620.81055, F.S.

<sup>17</sup> Long Term Revenue Analysis, *supra* note 2, at 20.

<sup>18</sup> Section 212.0606(1), F.S.

<sup>19</sup> Section 212.0606(2), F.S.

<sup>20</sup> Section 212.0606(2), F.S.

- Tourism Promotional Trust Fund (4.25 percent).

In FY 2019-20, the rental car surcharge is estimated to generate \$200.3 million.<sup>21</sup>

### Waste Tire and Lead-Acid Battery Fees

A \$1.50 fee is imposed on the sale of new or remanufactured batteries for use in motor vehicles (on-road or off-road), vessels, or aircraft and is due whether the battery is sold separately or as a component part of the vehicle, vessel, or aircraft.<sup>22</sup> The fee is not imposed on the sale of a battery for resale.

A \$1.00 fee is imposed on the retail sale of each new motor vehicle tire whether a tire is sold separately or as a component part of a vehicle.<sup>23</sup> The fee must be separately stated on the sales invoice and included in the total amount subject to sales tax.

A "new tire" is one that has never been used on or off the roads of Florida. This does not include recaps. A "motor vehicle" is one that transports people or cargo, such as automobiles, motorcycles, trucks, trailers, semi-trailers, and truck tractors. It also includes vehicles that operate on and off the roads of Florida, such as golf carts, all-terrain vehicles, and travel trailers.

These fees are imposed on dealers making retail sales of new and remanufactured lead-acid batteries, and new motor vehicle tires, including those sold to governmental entities or to nonprofit organizations, when the sales are made in Florida.

The waste tire fee is deposited into the Solid Waste Management Trust Fund used for solid waste management regulation and research, mosquito control, litter prevention, and small county solid waste management grants. The lead-acid battery fee is deposited in the Water Quality Assurance Trust Fund, which helps fund a wide variety of water quality regulatory activities.

These fees are estimated to generate \$34.9 million in FY 2019-20.<sup>24</sup>

### Motor Vehicle Initial Registration Fee

The motor vehicle initial registration fee is a \$225 fee that is imposed on the initial application for registration of private vehicles and light trucks in Florida.<sup>25</sup> It does not apply when the vehicle being registered is replacing a vehicle already registered in Florida in the same category of vehicle.

The revenues from the motor vehicle initial registration fee are distributed as follows:

- State Transportation Trust Fund (44.5 percent);
- General Revenue (41.2 percent); and
- Highway Safety Operating Trust Fund (4.25 percent).

The motor vehicle initial registration fee is estimated to generate \$274.4 million in FY 2019-20.<sup>26</sup>

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<sup>21</sup> Revenue Estimating Conference, Revenues to State Transportation Trust Fund, December 6, 2018.

<sup>22</sup> Section 403.7185, F.S.

<sup>23</sup> Section 403.718(1), F.S.

<sup>24</sup> Florida Revenue Estimating Conference, *2019 Florida Tax Handbook*, <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited Mar. 22, 2019) (hereinafter 2019 Florida Tax Handbook).

<sup>25</sup> Section 320.072, F.S.

<sup>26</sup> Revenue Estimating Conference, Highway Safety Fees, November 2018.



## Hospital and Health Care Entity Assessments

Annual assessments are imposed on net operating revenues of hospitals at the rate of 1.5 percent for inpatient services<sup>27</sup> and 1.0 percent for outpatient services.<sup>28</sup> Florida statutes provide that annual assessments be imposed at the rate of 1.0 percent on net operating revenues of ambulatory surgical centers and clinical laboratories.<sup>29</sup> However, the annual assessments on net operating revenues of ambulatory surgical centers and clinical laboratories have been found to be unconstitutional and are not being collected.<sup>30</sup>

Revenue generated from hospital and health care entity assessments are deposited in the Public Medical Assistance Trust Fund,<sup>31</sup> used to help fund the state's share of Medicaid spending. These assessments are estimated to generate \$636.4 million in FY 2019-20.<sup>32</sup>

## Select Auto Title and Lien Fees

Fees are imposed when motor vehicles are titled in Florida. For each original certificate of title and for each duplicate copy, the fee is \$70, except for motor vehicles for hire,<sup>33</sup> which are \$49. An additional \$10 fee is imposed on each original certificate of title issued for a motor vehicle previously registered outside Florida. There is also a \$4.25 service charge for the transfer of any certificate of title and a \$2.00 fee for assignment by a lien holder, memorandum certificates, and noting a lien and its satisfaction. There is a \$1.25 service charge for the recordation or notation of a lien, which is not in connection with the purchase of a vehicle. A service fee of \$2.50, to be deposited into the Highway Safety Operating Trust Fund, is charged for shipping and handling for each paper title mailed by the Department of Highway Safety and Motor Vehicles (DHSMV). DHSMV has a separate title office, which may be used by private citizens and licensed motor vehicle dealers to receive expedited service on title transfers, title issuances, duplicate titles, and recordation of liens, and certificates of repossession. A fee of \$10 for motor vehicles and mobile homes and \$5 for vessels is charged for this service, which is in addition to the fees imposed by s. 319.32, F.S. The fee, after deducting the \$1 odometer fee amount referenced by s. 319.324, F.S., and \$3.50 to be retained by the processing agency, is deposited into the General Revenue Fund. Any tax collector may impose an additional service charge of not more than \$.50 when any of the above-mentioned transactions occur at any tax collector's branch office. Application for title must be made within 30 days of acquisition, subject to a \$20 late fee penalty.

The \$70 fee is distributed between the State Transportation Trust Fund and the General Revenue Fund, excluding \$1 that is deposited into the Highway Safety Operating Trust Fund to fund the DHSMV's efforts to prevent and detect odometer fraud.<sup>34</sup> The DHSMV or the tax collector who processes the application retains the \$4.25 service charge.<sup>35</sup>

Auto title and lien fees are estimated to generate \$479.3 million in FY 2019-20.<sup>36</sup>

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<sup>27</sup> Section 395.701(2)(a), F.S.

<sup>28</sup> Section 395.701(2)(b), F.S.

<sup>29</sup> Section 395.7015, F.S.

<sup>30</sup> *Agency for Health Care Admin. v. Hameroff*, 816 So. 2d 1145, 1149-1150 (Fla. 1st DCA 2002).

<sup>31</sup> Section 395.7015(4), F.S.

<sup>32</sup> 2019 Florida Tax Handbook, *supra* note 24, at 93.

<sup>33</sup> Vehicles registered under s. 320.08(6), F.S.

<sup>34</sup> Sections 319.32(5) and 319.324, F.S.; Section 319.32(5), F.S., provides that \$47 of each fee collected for an original or duplicate certificate of title is deposited into the State Transportation Trust Fund, which may receive up to \$200 million in any fiscal year. The remainder of the fee and any fees in excess of the \$200 million are deposited into the General Revenue Fund.

<sup>35</sup> Section 319.32(2)(b), F.S.

<sup>36</sup> Long Term Revenue Analysis, *supra* note 2, at 51.

## Select Driver License Fees

Driver license fees are collected from individuals who apply for the following types of licenses (originals, renewals, and replacements): Learners, Class E operators, Class E with motorcycle endorsement, Class E motorcycle only license, and Class A, B, and C commercial driver licenses with or without endorsements. In addition, fees are collected for delinquent renewals and reinstatements following suspensions, revocations, disqualifications, and cancellations.

<b>Fee Type</b>	<b>Current Fee Amount</b>
Driver License Fees	
Original Class E (includes Learner's license)	\$48.00
Original/Renewal Commercial Driver License	\$75.00
Original School Board Commercial Driver License	\$48.00
Renewal Class E	\$48.00
Renewal School Board Commercial Driver License	\$48.00
Replacement license (Free to veterans only adding the "Veteran" designation)	\$25.00
Late Fee	\$15.00
Endorsements	\$7.00
Knowledge retest	\$10.00
Skill retest	\$20.00
Identification Cards (Original, Renewal & Replacement)	\$25.00
Administrative Fee for alcohol and drug related offenses	\$130.00
D-6 Suspension - DHSMV	\$60.00
Disqualification	\$75.00
Revocations (additional administrative fee shown above required if alcohol or drug related)	\$75.00
Suspensions (additional administrative fee shown above required if alcohol or drug related)	\$45.00
Child Support Suspension	\$60.00
Worthless Check Suspension	\$55.00
Filing Fee for hardship hearing	\$12.00
Filing Fee for Formal/Informal review	\$25.00
DUI program fee (assessed by the program)	\$15.00
Interlock Fee (assessed by the vendor)	\$12.00

Proceeds from driver license fees are distributed to General Revenue, the Highway Safety Operating Trust Fund, and the Tax Collector office that collected the fees. The specific breakdown varies by individual fee.

Driver license fees are estimated to generate \$398.8 million in FY 2019-20.<sup>37</sup>

<sup>37</sup> Long Term Revenue Analysis, *supra* note 2, at 51.  
**STORAGE NAME:** h7053c.SAC  
**DATE:** 4/4/2019

## Select Motor Vehicle Registration Surcharges

There are numerous “surcharges” that are related to motor vehicle registration and are normally paid in connection with annual registration taxes, in addition to the base registration tax. These include:

- \$1.20 registration surcharge on each annual motor vehicle registration except for mobile homes (\$1 of each surcharge goes to the State Transportation Trust Fund);
- \$2.80 motor vehicle license plate replacement fee on each annual motor vehicle registration except for mobile homes;
- \$0.10 on each motor vehicle and on each moped for the Emergency Medical Trust Fund;
- \$1.00 surcharge on each annual motor vehicle registration except for mobile homes for the Grants and Donation Trust Fund in the Department of Juvenile Justice;
- \$1.00 surcharge on each annual motor vehicle registration except mobile homes for the State Agency Law Enforcement Radio Systems Trust Fund;
- \$0.50 fee on every license registration for the Florida Real Time Vehicle Information System;
- \$1.00 air pollution surcharge for the Air Pollution Control Trust Fund;
- \$0.50 retro-reflection materials fee;
- \$1.00 mobile home surcharge to be collected only on mobile home registrations for the Florida Mobile Home Relocation Trust Fund; and
- \$1.00 surcharge for transportation disadvantaged.

Except as otherwise indicated above, revenues from these fees are deposited into the Highway Safety Operating Trust Fund.

These motor vehicle registration surcharges are estimated to generate \$242.9 million in FY 2019-20.<sup>38</sup>

### *Proposed Changes*

The bill would amend the relevant statutes to rename the above surcharges, fees and assessments as taxes. Generally, service charges and penalty charges that may be listed above are not renamed. The bill also repeals the annual assessments on net operating revenues of ambulatory surgical centers imposed under s. 395.7015, F.S., which were found to be unconstitutional and are no longer collected.<sup>39</sup>

## **Local Government Revenues**

### *Current Situation*

The Florida Constitution and statutes give counties<sup>40</sup> and municipalities<sup>41</sup> home rule authority to raise revenue for their governmental purposes, without specific authorization from the Legislature, as long as they are not inconsistent with general law. The constitution also authorizes counties, school districts, and municipalities to levy ad valorem taxes, within prescribed limits. The constitution, however, reserves for the Legislature all other power to tax.<sup>42</sup> Local governments may not levy taxes, other than ad valorem taxes, except as authorized by general law.<sup>43</sup> Among the home rule revenue sources available to counties and municipalities are:

- Special assessments and non-ad valorem assessments;
- Impact fees and mobility fees;
- Franchise fees; and
- Other charges to pay the cost of regulatory activities.

<sup>38</sup> Derived from workpapers supporting the Revenue Estimating Conference, Highway Safety Fees Conference, November 2018.

<sup>39</sup> *Agency for Health Care Admin. v. Hameroff*, 816 So. 2d 1145, 1149-1150 (Fla. 1st DCA 2002).

<sup>40</sup> Art. VIII, s. 1(f) and (g), Fl. Const., and s. 125.01, F.S.

<sup>41</sup> Art VIII, s. 2(b), Fla. Const., and s. 166.021, F.S.

<sup>42</sup> Art. VII, s. 1(a), Fla. Const.

<sup>43</sup> Art. VII, s. 1(a), Fla. Const.

## Special Assessments and Non-Ad Valorem Assessments

Special assessments are levies against property to pay for an improvement or service that provides a special benefit to the property or properties in question. They are imposed upon the theory that when a local improvement or service enhances the value of neighboring property, that property should pay for the improvement or service in proportion to the benefit it receives.<sup>44</sup> This contrasts to a common concept of a tax, as an enforced burden imposed on the theory of a state's right to compel all citizens and property therein to contribute to the payment of general government expenses without a return or special benefit to the property.<sup>45</sup> Although this distinction may not be important to the person required to pay the special assessment or tax, it is important when determining a local government's power to levy the assessment. As discussed above, counties and municipalities have home rule revenue raising authority with respect to special assessments, but must have general law authorization for taxation.

Considerable litigation has ensued over the years attempting to determine when a special assessment is a valid levy under home rule authority and not an unauthorized tax. The general rule that has developed is that a special assessment must satisfy a two-pronged test: (1) the improvement or services at issue must provide a special benefit to assessed property; and (2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.<sup>46</sup> Generally, special assessments are collected on the annual ad valorem tax bill. Under this statutory collection procedure, the special assessment is characterized as a "non-ad valorem assessment."<sup>47</sup>

In Fiscal Year 2016-17, counties, municipalities, and special districts collected a total of \$3,047 million in special assessments/non-ad valorem assessments.<sup>48</sup>

## Impact Fees and Mobility Fees

### Impact Fees

Section 163.31801(2), F.S., provides in part that "[t]he Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction..." Impact fees are levies imposed against new development to provide for the cost of infrastructure made necessary by that growth. Impact fees must meet a "dual rational nexus test" to be valid. The dual rational nexus test established in case law<sup>49</sup> provides that the amount of impact fees charged must bear a reasonable relationship to the cost of providing public facilities necessitated by new development; and the impact fees collected must be earmarked and spent to construct public facilities reasonably benefiting the development paying the fee.

### Mobility Fees<sup>50</sup>

Historically, the use of transportation impact fees has been limited to infrastructure investments, with most local governments using the fees to fund roadway capital improvements, such as roadway

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<sup>44</sup> *Blake v. City of Tampa*, 156 So. 97, 99 (1934).

<sup>45</sup> *Id.*

<sup>46</sup> *City of Boca Raton v. State*, 595 So. 2d 25, 29 (Fla. 1992), *modified sub nom. Collier Cty. v. State*, 733 So. 2d 1012 (Fla. 1999), and *holding modified by Sarasota Cty. v. Sarasota Church of Christ, Inc.*, 667 So. 2d 180 (Fla. 1995)

<sup>47</sup> Section 197.3632(1)(d), F.S.

<sup>48</sup> Florida Office of Economic and Demographic Research, *Local Government Data*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/index.cfm> (last visited Mar. 22, 2019).

<sup>49</sup> *See, e.g., St. Johns Cty. v. Ne. Fla. Builders Ass'n, Inc.*, 583 So. 2d 635, 637 (Fla. 1991)

<sup>50</sup> Florida Dept. of Transportation, *Using Mobility Fees to Fund Transit Improvements*, [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content/transit/pages/finalmobilityfeeguidebook111816.pdf?sfvrsn=8186dfe3\\_0](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content/transit/pages/finalmobilityfeeguidebook111816.pdf?sfvrsn=8186dfe3_0)

widening or other capacity improvements. A mobility fee is a specific type of impact fee that funds transportation system demands resulting from new development that allows local governments to assess the proportionate cost of transportation improvements needed to serve the demand generated by development. Mobility fee programs have allowed local governments to expand from a narrow focus on roadway improvements to broader funding mechanisms designed to promote the implementation of a full range of multimodal mobility improvements. Mobility fees must meet the dual rational nexus test described above.<sup>51</sup>

In FY 2016-17, total collections of impact fees by counties and municipalities was \$909 million.<sup>52</sup>

### Franchise Fees

Franchise fees are levies, usually imposed upon a utility, for the grant of a franchise and for the privilege of using a local government's rights-of-way to conduct utility business. Unlike other governmental levies, franchise fees are bargained for in exchange for specific property rights that may be relinquished by local governments.<sup>53</sup> Franchise fees constitute a consideration paid by the utility for its franchise.<sup>54</sup> Franchise fee revenues are not restricted and are often used for local government general fund purposes.

Franchise fees collected by counties and municipalities in FY 2016-17 totaled \$909 million.<sup>55</sup>

### Charges to Pay the Cost of Regulatory Activities

Charges to pay the cost of regulatory activities are imposed pursuant to a local government's police powers in the exercise of its sovereign functions. Generally, this category can include charges such as permit fees and inspection fees. Florida case law has determined that in order for such regulatory fees to be valid levies under local government home rule authority, the fees cannot exceed the cost of the regulatory activity and are generally required to be applied solely to pay the cost of the regulatory activity for which they are imposed.

### *Proposed Changes*

The bill requires, on a prospective basis, any new impositions or rate increases, or proposed impositions or rate increases, in the above levies by counties, municipalities, or special districts to be titled as and represented to the public as "taxes" as follows:

- A new or increased special assessment or a non-ad valorem assessment must be titled and represented to the public as a "special benefit tax";
- A new or increased impact fee or mobility fee must be titled and represented to the public as a "development impact tax";
- A new or increased franchise fee must be titled and represented to the public as a "franchise tax";
- A new or increased charge to pay the cost of regulation must be titled and represented to the public as a tax in a manner reasonably consistent with the type of regulation and charge in question.

The bill expressly provides that it does not repeal or otherwise affect, amend, or alter a county or municipality's home rule authority under the State constitution or other provisions of law to impose the affected local government levies, and it is the Legislature's intent only that such levies be renamed and

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<sup>51</sup> Section 163.3180(5)(i), F.S.

<sup>52</sup> Florida Office of Economic and Demographic Research, *supra* note 48.

<sup>53</sup> *City of Plant City v. Mayo*, 337 So. 2d 966, 973 (Fla. 1976)

<sup>54</sup> *City of Hialeah Gardens v. Dade Cty.*, 348 So. 2d 1174, 1180 (Fla. 3d DCA 1977)

<sup>55</sup> Florida Office of Economic and Demographic Research, *supra* note 48.

represented to the public as taxes. Similarly, it provides that a special district's authority to levy special assessments under other provisions of law is not affected, amended, or altered by the bill.

## Truth-in-Millage Notice

### *Current Situation*

The property appraiser must provide each taxpayer listed on the current year's assessment roll a notice of proposed property taxes and non-ad valorem assessments by first-class mail.<sup>56</sup> This notice, more commonly known as a truth-in-millage, or TRIM, notice, is sent on behalf of all taxing authorities levying ad valorem taxes and non-ad valorem assessments on each parcel listed on the current year's assessment roll.<sup>57</sup> TRIM notices are prepared using a standardized form specified by statute. The property appraiser may not alter the contents of the form; however, the Department of Revenue may adjust the spacing and placement of elements on the form as necessitated by the needs of local taxing authorities.

The first page of the TRIM notice states that the notice is a "notice of proposed property taxes" and that the notice is not a bill.<sup>58</sup> The notice must inform the taxpayer that the taxing authorities, which levy property taxes on the property, will soon hold public hearings to adopt budgets and tax rates for the following year. The notice must include a brief legal description of the property, the name and mailing address of the owner of record, and the tax information applicable to the specific parcel in question.<sup>59</sup> The notice must include seven columns labeled:<sup>60</sup>

- "Taxing Authority;"
- "Your Property Taxes Last Year;"
- "Last Year's Adjusted Tax Rate (Millage);"<sup>61</sup>
- "Your Taxes This Year IF NO Budget Change Is Adopted;"
- "Tax Rate This Year IF PROPOSED Budget Is Adopted (Millage);"
- "Your Taxes This Year IF PROPOSED Budget Change Is Adopted;" and
- "A Public Hearing on the Proposed Taxes and Budget Will Be Held."

Under each column, the notice must include an entry for:<sup>62</sup>

- The county;
- The school district levy required pursuant to s. 1011.60(6), F.S.;
- Other operating school levies;
- The municipality or municipal service taxing unit or units in which the parcel lies (if any);
- The water management district levying pursuant to s. 373.503, F.S.;
- The independent special districts in which the parcel lies (if any); and
- All voted levies for debt service applicable to the parcel (if any).

The "taxing authority" column contains the brief, commonly used name for each taxing authority or its governing body.<sup>63</sup> The school district levies are indented and preceded by "Public Schools" with the school district levy required pursuant to s. 1011.60(6), F.S., labeled as "by state law," while other operating school levies are labeled as "by local board."

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<sup>56</sup> Section 200.069, F.S.

<sup>57</sup> See *Your TRIM Notice Explained*, Marion County, available at <https://www.marioncountyfl.org/home/showdocument?id=7990> (last visited Apr. 4, 2019).

<sup>58</sup> Section 200.069(1), F.S.

<sup>59</sup> Section 200.069(2)(a), F.S.

<sup>60</sup> *Id.*

<sup>61</sup> "Last years' adjusted tax rate" is the rolled-back rate. s. 200.069(2)(b), F.S. For voted levies for debt service, "last years' adjusted tax rate" is the rate authorized by referendum. S. 200.069(4)(c), F.S.

<sup>62</sup> Section 200.069(3), F.S.

<sup>63</sup> Section 200.069(4)(a), F.S.

The “public hearing” column states the times and places for local government board meetings at which tentative budgets and proposed tax rates are to be considered, prior to final approval.<sup>64</sup>

The bottom of the notice contains a final entry labeled “Total Property Taxes,” listing the total amount of taxes due to all taxing authorities levying ad valorem taxes on the property for the present year, if the rolled-back rate is adopted, and under the proposed budget.<sup>65</sup>

The second page of the notice states the property’s market value, value of exemptions, and taxable values for the previous and current year for each taxing authority that is levying ad valorem tax against the property.<sup>66</sup> The second page also provides the taxpayer notice of how to challenge the assessed value of the property.<sup>67</sup> A taxpayer wishing to challenge the assessed value in front of the value adjustment board (VAB) must submit a petition to the VAB no later than the 25<sup>th</sup> day following the mailing of the TRIM notice by the property appraiser.<sup>68</sup>

If a local governing board is levying non-ad valorem assessments against the property, this information may be included in the notice, but must be clearly delineated from information concerning proposed property taxes.<sup>69</sup>

### *Proposed Changes*

The bill requires each TRIM notice and notice of proposed taxes to refer to special benefit taxes in addition to the ad valorem taxes and non-ad valorem assessments.

### **Legislative Intent**

The bill provides that the Legislature does not intend for the provisions of the bill to affect case law interpreting the legal nature or character of state or local impositions, as that case law existed on January 1, 2020.

### **B. SECTION DIRECTORY:**

- Section 1. Amends s. 39.8298, F.S., to make a conforming change.
- Section 2. Amends s. 72.011, F.S., to make a conforming change.
- Section 3. Creates s. 125.01(8), F.S., to require any new imposition of, or increase in the rate or amount of, certain levies by a municipality to be titled and represented to the public as taxes. Provides the requirement also applies to proposed impositions or increases. Provides that this change does not affect, amend or alter the municipality’s home rule authority.
- Section 4. Creates s. 166.021(10), F.S., to require any new imposition of, or increase in the rate or amount of, certain levies by a county to be titled and represented to the public as taxes. Provides the requirement also applies to proposed impositions or increases. Provides that this change does not affect, amend or alter the county’s home rule authority.
- Section 5. Creates s. 189.011(4), F.S., to require any new imposition of, or increase in the rate or amount of, certain levies by a special district to be titled and represented to the public as taxes. Provides the requirement also applies to proposed impositions or increases.
- Section 6. Amends s. 197.3635, F.S, to make conforming changes.
- Section 7. Amends s. 200.069, F.S., to make conforming changes.
- Section 8. Amends s. 207.004(1) and (5), F.S., to rename a \$45 temporary fuel-use permit fee as a tax and rename a \$4 driveway permit fee a tax.

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<sup>64</sup> Section 200.069(4)(g), F.S.

<sup>65</sup> Section 200.069(5), F.S.

<sup>66</sup> Section 200.069(6)(a), F.S.

<sup>67</sup> Section 200.069(7), F.S.

<sup>68</sup> Section 194.011(2)(d), F.S.

<sup>69</sup> Section 200.069(10), F.S.

- Section 9. Amends s. 210.01, F.S., to rename the cigarette tax surcharge a surtax; provides clarifying language.
- Section 10. Amends s. 210.011, F.S., to rename the cigarette tax surcharge a surtax.
- Section 11. Amends s. 210.04, F.S., to rename the cigarette tax surcharge a surtax.
- Section 12. Amends s. 210.1801, F.S., to rename the cigarette tax surcharge a surtax; provides clarifying language.
- Section 13. Amends s. 210.276, F.S., to rename the cigarette tax surcharge a surtax.
- Section 14. Amends s. 212.0601, F.S., to provide a conforming change.
- Section 15. Amends s. 212.0606, F.S., to rename the rental car surcharge a surtax.
- Section 16. Amends s. 213.05, F.S., to make conforming changes.
- Section 17. Amends s. 213.053, F.S., to make conforming changes.
- Section 18. Amends s. 213.24, F.S., to make conforming changes.
- Section 19. Amends s. 282.709, F.S., to make conforming changes.
- Section 20. Amends s. 316.2124, F.S., to rename a \$2.50 surcharge for motorized disability access vehicles a surtax and to make conforming changes.
- Section 21. Amends s. 316.545, F.S., to make conforming changes.
- Section 22. Amends s. 316.550, F.S., to rename a \$5 minimum permit fee a tax and to rename an annualized fee for blanket permits a tax.
- Section 23. Amends s. 317.0004, F.S., to make conforming changes.
- Section 24. Amends s. 317.0006, to rename a \$10 fee related to title transfers a tax.
- Section 25. Amends s. 317.0007, F.S., to rename a \$29 fee for off-highway vehicle title applications a tax.
- Section 26. Amends s. 317.0008, F.S., to rename a \$15 duplicate certificate of title fee a tax.
- Section 27. Amends s. 317.0010, F.S., to make conforming changes.
- Section 28. Amends s. 317.011, F.S., to make conforming changes.
- Section 29. Amends s. 317.0014, F.S., to make conforming changes.
- Section 30. Amends s. 317.0016, F.S., to make conforming changes.
- Section 31. Amends s. 318.15, F.S., to make conforming changes.
- Section 32. Amends s. 319.14, F.S., to rename a \$40 fee for low-speed vehicle conversion to a golf cart a tax.
- Section 33. Amends s. 319.23, F.S., to rename a \$20 application fee for a certificate of title a tax and to make conforming changes.
- Section 34. Amends s. 319.24, F.S., to make conforming changes.
- Section 35. Amends s. 319.25, F.S., to make conforming changes.
- Section 36. Amends s. 319.27, F.S., to make conforming changes.
- Section 37. Amends s. 319.28, F.S., to make conforming changes.
- Section 38. Amends s. 319.29, F.S., to make conforming changes.
- Section 39. Amends s. 319.30, F.S., to make conforming changes.
- Section 40. Amends s. 319.32, F.S., to rename the \$70 original certificate of title fee a tax; to rename the \$49 motor vehicle for hire original certificate of title fee a tax; to rename a \$2 fee for noting a lien on a title certificate a tax; to rename a \$40 initial examination fee a tax; to rename a \$10 fee for certificates of title issued for a vehicle previously registered outside this state a tax; to rename a \$7 fee for each lien placed on a motor vehicle by the state child support enforcement program a tax; to make conforming changes.
- Section 41. Amends s. 319.323, F.S., to make conforming changes.
- Section 42. Amends s. 320.01, F.S., to make conforming changes.
- Section 43. Amends s. 320.02, F.S., to make conforming changes.
- Section 44. Amends s. 320.03, F.S., to rename a 50 cents fee on International Registration Plan license registrations related to the Florida Real Time Vehicle Information System a tax; to rename a \$1 nonrefundable air pollution fee a tax; to rename a \$1.50 nonrefundable registration fee for transportation disadvantaged a tax and to make conforming changes.
- Section 45. Amends s. 320.055, F.S., to make conforming changes.
- Section 46. Amends s. 320.06, F.S., to rename the \$28 license plate replacement fee a tax; to rename a 50 cent retroreflection material fee a tax and to make conforming changes.



- Section 47. Amends s. 320.0607, F.S., to rename a \$28 application fee a tax and to make conforming changes.
- Section 48. Amends s. 320.0609, F.S., to rename a \$4.50 license plate transfer fee a tax and to make conforming changes.
- Section 49. Amends s. 320.0655, F.S., to make conforming changes.
- Section 50. Amends s. 320.0657, F.S., to rename a \$2 annual fleet management fee a tax; to rename a \$1.50 license plate manufacturing fee a tax; to rename a \$10 per vehicle fee related to fleet size increases a tax; to make conforming changes.
- Section 51. Amends s. 320.0659, to make conforming changes.
- Section 52. Amends s. 320.07, F.S., to make conforming changes.
- Section 53. Amends s. 320.0705, F.S., to rename a \$2.50 semiannual registration fee a tax and to make conforming changes.
- Section 54. Amends s. 320.071, F.S., to make conforming changes.
- Section 55. Amends s. 320.0715, F.S., to rename a \$5 special temporary permit fee a tax; to rename a \$3 temporary operational permit fee a tax; and to make conforming changes.
- Section 56. Amends s. 320.072, F.S., to rename the \$225 initial registration fee a tax and to make conforming changes.
- Section 57. Amends s. 320.08, F.S., to rename a \$324 license plate fee a tax and to make conforming changes.
- Section 58. Amends s. 320.0801, F.S., to rename a \$10 additional license surcharge on commercial motor vehicles having a gross vehicle weight of 10,000 pound or more a surtax and to make conforming changes.
- Section 59. Amends s. 320.08015, F.S., to rename a \$1 mobile home license tax surcharge a surtax.
- Section 60. Amends s. 320.0802, F.S., to rename a \$2 State Agency Law Enforcement Radio System Trust Fund license tax surcharge a surtax.
- Section 61. Amends s. 320.0804, F.S., F.S., to rename a \$2 license tax surcharge a surtax.
- Section 62. Amends s. 320.08046, F.S., to rename a \$1 juvenile justice license tax surcharge a surtax.
- Section 63. Amends s. 320.08053, F.S., to make conforming changes.
- Section 64. Amends s. 320.08056, F.S., to make conforming changes.
- Section 65. Amends s. 320.06068, F.S., to make conforming changes.
- Section 66. Amends s. 320.0807, F.S., to make conforming changes.
- Section 67. Amends s. 320.081, F.S., to make conforming changes.
- Section 68. Amends s. 320.0815, F.S., to rename a \$3 "RP" series sticker fee a tax.
- Section 69. Amends s. 320.0821, F.S., to make conforming changes.
- Section 70. Amends s. 320.0846, to make conforming changes.
- Section 71. Amends s. 320.0848, to rename disabled parking permit fees as taxes.
- Section 72. Amends s. 320.086, F.S., to make conforming changes.
- Section 73. Amends s. 320.089, F.S., to make conforming changes.
- Section 74. Amends s. 320.0891, F.S., to make conforming changes.
- Section 75. Amends s. 320.102, F.S., to make conforming changes.
- Section 76. Amends s. 320.13, F.S., to rename a \$4.50 dealer and manufacturer license plate transfer fee a tax.
- Section 77. Amends s. 320.131, F.S., rename a \$2 temporary tag fee a tax.
- Section 78. Amends s. 320.1325, F.S., to rename a \$40 90-day temporary registration plate fee a tax and to make conforming changes.
- Section 79. Amends s. 320.18, F.S., to make conforming changes.
- Section 80. Amends s. 320.27, F.S., to make conforming changes.
- Section 81. Amends s. 320.39, F.S., to make conforming changes.
- Section 82. Amends s. 320.781, F.S., to rename a \$1 mobile home and recreational vehicle protection fee a tax.
- Section 83. Amends s. 322.051, F.S., to rename an application fee a fee a tax and to make conforming changes.
- Section 84. Amends s. 322.12, F.S., to make conforming changes.
- Section 85. Amends s. 322.135, F.S., to make conforming changes.

- Section 86. Amends s. 322.14, F.S., to make conforming changes.
- Section 87. Amends s. 322.142, F.S., to make conforming changes.
- Section 88. Amends s. 322.17, F.S., to make conforming changes.
- Section 89. Amends s. 322.18, F.S., to make conforming changes.
- Section 90. Amends s. 322.21, F.S., to rename original and renewal Class E and commercial driver license fees as taxes; to rename the hazardous-materials endorsement fee a tax; to rename reinstatement fees that follows a suspension or revocation renaming as taxes; to rename a \$130 fee for refusal to submit to a breath, blood, or urine test a tax; to rename a \$180 fee for certain unsuccessful challenges or a revocation or suspension as a tax; to make conforming changes.
- Section 91. Amends s. 322.22, F.S., to make conforming changes.
- Section 92. Amends s. 322.251, F.S., to rename a \$10 reinstatement fee a tax and to make conforming changes.
- Section 93. Amends s. 322.29, F.S., to rename a \$60 reinstatement fee a tax and to make conforming changes.
- Section 94. Amends s. 376.307, F.S., to make conforming changes.
- Section 95. Amends s. 395.003, F.S., to make conforming changes.
- Section 96. Amends s. 395.701, F.S., to rename the annual assessments on net operating revenues for inpatient and outpatient services to fund public medical assistance as taxes and to make conforming changes.
- Section 97. Repeals s. 395.7015, F.S., to repeal the one percent annual assessments on the net operating revenues of certain health care entities as taxes and to make conforming changes.
- Section 98. Amends s. 395.7016, F.S., to make conforming changes.
- Section 99. Amends s. 403.718, F.S., to rename the waste tire fee a surtax and to make conforming changes.
- Section 100. Amends s. 403.7185, F.S., to rename the lead-acid battery fee as a surtax and to make conforming changes.
- Section 101. Amends s. 408.07, F.S., to make conforming changes.
- Section 102. Amends s. 427.0159, F.S., to make conforming changes.
- Section 103. Amends s. 605.0113, F.S., to make conforming changes.
- Section 104. Amends s. 605.0118, F.S., to make conforming changes.
- Section 105. Amends s. 605.0206, F.S., to make conforming changes.
- Section 106. Amends s. 605.0209, F.S., to make conforming changes.
- Section 107. Amends s. 605.0211, F.S., to make conforming changes.
- Section 108. Amends s. 605.0212, F.S., to make conforming changes.
- Section 109. Amends s. 605.0213, F.S., rename limited liability company business filing fees as taxes and to make conforming changes.
- Section 110. Amends s. 605.0707, F.S., to make conforming changes.
- Section 111. Amends s. 605.0714, F.S., to make conforming changes.
- Section 112. Amends s. 605.0715, F.S., to make conforming changes.
- Section 113. Amends s. 605.0902, F.S., to make conforming changes.
- Section 114. Amends s. 605.0903, F.S., to make conforming changes.
- Section 115. Amends s. 605.0904, F.S., to make conforming changes.
- Section 116. Amends s. 605.0908, F.S., to make conforming changes.
- Section 117. Amends s. 605.0909, F.S., to make conforming changes.
- Section 118. Amends s. 607.0122, F.S., to rename corporation business filing fees as taxes and to make conforming changes.
- Section 119. Amends s. 607.0124, F.S., to make conforming changes.
- Section 120. Amends s. 607.0125, F.S., to make conforming changes.
- Section 121. Amends s. 607.0128, F.S., to make conforming changes.
- Section 122. Amends s. 607.0501, F.S., to make conforming changes.
- Section 123. Amends s. 607.0502, F.S., to make conforming changes.
- Section 124. Amends s. 607.1420, F.S., to make conforming changes.
- Section 125. Amends s. 607.1422, F.S., to make conforming changes.

- Section 126. Amends s. 607.1502, F.S., to make conforming changes.
- Section 127. Amends s. 607.15315, F.S., to make conforming changes.
- Section 128. Amends s. 607.193, F.S., to rename the \$88.75 supplemental corporate fee a tax and to make conforming changes.
- Section 129. Amends s. 609.02, F.S., to rename a \$350 declaration of trust filing fee a tax.
- Section 130. Amends s. 609.03, F.S., to make conforming changes.
- Section 131. Amends s. 609.08, F.S., to rename a \$350 articles of merger fee a tax.
- Section 132. Amends s. 610.104, F.S., to rename a \$10,000 application fee to provide cable or video service a tax.
- Section 133. Amends s. 617.01201, F.S., to make conforming changes.
- Section 134. Amends s. 617.0122, F.S., to rename not for profit corporation business filing fees as taxes.
- Section 135. Amends s. 617.0124, F.S., to make conforming changes.
- Section 136. Amends s. 617.0128, F.S., to make conforming changes.
- Section 137. Amends s. 617.0501, F.S., to make conforming changes.
- Section 138. Amends s. 617.0502, F.S., to make conforming changes.
- Section 139. Amends s. 617.1420, F.S., to make conforming changes.
- Section 140. Amends s. 617.1422, F.S., to make conforming changes.
- Section 141. Amends s. 617.1533, F.S., to make conforming changes.
- Section 142. Amends s. 617.1623, F.S., to make conforming changes.
- Section 143. Amends s. 617.1807, F.S., to make conforming changes.
- Section 144. Amends s. 617.2006, F.S., to make conforming changes.
- Section 145. Amends s. 617.2102, F.S., to make conforming changes.
- Section 146. Amends s. 620.1109, F.S., to rename limited partnership business filing fees as taxes.
- Section 147. Amends s. 620.1206, F.S., to make conforming changes.
- Section 148. Amends s. 620.1207, F.S., to make conforming changes.
- Section 149. Amends s. 620.1209, F.S., to make conforming changes.
- Section 150. Amends s. 620.1809, F.S., to make conforming changes.
- Section 151. Amends s. 620.1810, F.S., to make conforming changes.
- Section 152. Amends s. 620.1904, F.S., to make conforming changes.
- Section 153. Amends s. 620.1906, F.S., to make conforming changes.
- Section 154. Amends s. 620.1909, F.S., to make conforming changes.
- Section 155. Amends s. 620.81054, F.s., to make conforming changes.
- Section 156. Amends s. 620.81055, F.S., to rename partnership business filing fees as taxes.
- Section 157. Amends s. 620.9003, F.S., to make conforming changes.
- Section 158. Amends s. 658.23, F.S., to make conforming changes.
- Section 159. Amends s. 1003.48, F.S., to rename a 50 cent driver education license fee a tax and to make conforming changes.
- Section 160. Provides the Department of Revenue emergency rulemaking authority to implement the provisions of the act.
- Section 161. Provides appropriations.
- Section 162. Provides legislative intent relating to existing case law.
- Section 163. Provides an effective date.

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

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

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

None.

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

The bill appropriates \$105,280 in non-recurring General Revenue to the Department of Highway Safety and Motor Vehicles for programming costs and OPS staffing costs to implement the

provisions of the bill relevant to the department. The bill also appropriates \$26,355 to the Agency for Health Care Administration for system updates to implement the provisions of the bill relevant to the agency. The Departments of State, Revenue, Financial Services, and Business and Professional Regulation all indicate either insignificant or no operational impacts.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill provides emergency rulemaking authority to the Department of Revenue to implement the provisions of the act.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

The Appropriations Committee adopted three amendments on March 18, 2019, and reported the bill favorably as amended:

- The first amendment was technical in nature and corrected minor drafting errors in the bill where the word "assessment" was incorrectly struck from statute.
- The second amendment provides appropriations totaling \$131,635 to the Department of Highway Safety and Motor Vehicles and the Agency for Health Care Administration to pay for programming costs, OPS staffing costs and costs for system updates that these agencies will incur.

- The third amendment repeals a statute that imposes an annual assessment on the net operating revenue of certain ambulatory surgical centers and diagnostic-imaging centers. The assessment was found to be unconstitutional in the early 2000s and is currently not being collected.

On April 4, 2019, the State Affairs Committee adopted four amendments and reported the bill favorably as a committee substitute:

- The first amendment clarified that changes made by the bill are not a repeal of the existing authority of counties, municipalities, and special districts to levy special assessments, impact fees, mobility fees, or franchise fees, as the power to impose those levies exists on January 1, 2020.
- The second amendment revised the contents of TRIM notices to reflect changes made by the bill.
- The third amendment removed a cross-reference to s. 395.7015, F.S. (annual assessment on health care entities), which is repealed by the bill.
- The fourth amendment provided that the Legislature does not intend the provisions of the bill to affect case law interpreting the legal nature or character of state or local impositions, as that case law existed on January 1, 2020.

The analysis is drafted to the committee substitute as passed by the State Affairs Committee.