

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7123 PCB WMC 19-02 Taxation
SPONSOR(S): 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, 2 N	Berg	Langston
1) Appropriations Committee	18 Y, 9 N, As CS	Hawkins	Pidgeon

SUMMARY ANALYSIS

The bill provides for several tax reductions and other tax-related modifications designed to directly impact both families and businesses.

The bill includes the following provisions related to sales tax:

- A reduction in the tax rate for commercial property rentals from 5.7% to 5.35%,
- A three-day “back-to-school” holiday for certain clothing, school supplies, and personal computers, and
- A seven-day “disaster preparedness” holiday for specified disaster preparedness items.

Regarding property taxes, the bill includes the following:

- The requirements for hospitals to qualify for a charitable tax exemption are amended. These are the provisions of CS/HB 1295. Non-profit hospitals would be required to document the value of charitable services they provide, and their current charitable tax exemption would be limited to the value of that charity care.
- Clarification is provided that usage of school district voted discretionary operating property tax levies is to apply proportionately to charter schools in the levying district in the same manner as charter schools are funded under current law, and that amounts shared with charter schools are to be used in a manner consistent with the purposes of the levy.
- The timing of payments to local governments in fiscally constrained counties and Monroe County to offset property tax refunds granted to homeowners due to hurricanes in 2016 and 2017 would be slightly delayed in fiscal year 2019-20 to allow for the related state appropriation to be based on actual data, instead of an estimate.
- Additional flexibility is granted to the Department of Revenue in conducting in-depth reviews of property assessment rolls in counties affected by natural disasters.

Further changes include additional flexibility in the use of tax credits by insurance premium tax payers under the Florida Scholarship Tax Credit Program and the creation of a temporary tax credit for health insurers and health maintenance organizations that cover services provided by telehealth.

The total state and local government impact of the bill in fiscal year 2019-20 is -\$102.6 million (-\$144.1 million recurring). See FISCAL COMMENTS section for more details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Sales Tax

Florida's sales and use tax is a six percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals,¹ unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's general revenue stream (77.0 percent for FY 2018-19)² and is administered by the Department of Revenue (DOR) under ch. 212, F.S.

Sales Tax on Rental of Commercial Real Estate (Business Rent Tax)

Current Situation

Since 1969, Florida has imposed a sales tax on the total rent charged under a commercial lease of real property.³ Sales tax is due at the rate of 5.7 percent on the total rent paid for the right to use or occupy commercial real property. Local option sales surtaxes can also apply.⁴ If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.

Commercial real property includes land, buildings, office or retail space, convention or meeting rooms, airport tie-downs, and parking and docking spaces. It may also involve the granting of a license to use real property for placement of vending, amusement, or newspaper machines. However, there are numerous commercial rentals that are not subject to sales tax, including:

- Rentals of real property assessed as agricultural;
- Rentals to nonprofit organizations that hold a current Florida consumer's certificate of exemption;
- Rentals to federal, state, county, or city government agencies;
- Properties used exclusively as dwelling units; and
- Public streets or roads used for transportation purposes.

Florida is the only state to charge sales tax on commercial rentals of real property.

Proposed Changes

The bill reduces the state sales tax rate on rental of commercial real estate from 5.7 percent to 5.35 percent, beginning January 1, 2020.

Sales Tax Holidays

Current Situation

Since 1998, the Legislature has enacted 24 temporary periods (commonly called "sales tax holidays") during which certain household items, household appliances, clothing, footwear, books, and/or school

¹ The Legislature reduced the sales tax rate on commercial rentals to 5.7% effective January 1, 2019. See s. 33, ch. 2018-118, L.O.F.

² FLORIDA REVENUE ESTIMATING CONFERENCE (REC), 2019 FLORIDA TAX HANDBOOK (2019).

³ ch. 1969-222, Laws of Fla.

⁴ s. 212.031, F.S., and Rule 12A-1.070, F.A.C.

supply items were exempted from the state sales tax and the various local government discretionary sales surtaxes.

Back-to-School Holidays--Florida has enacted a “back to school” sales tax holiday seventeen times since 1998. The length of the exemption periods has varied from three to 10 days. The type and value of exempt items has also varied. Clothing and footwear have always been exempted at various thresholds, most recently \$60. Books valued at \$50 or less were exempted in six periods. School supplies have been included starting in 2001, with the value threshold increasing from \$10 to \$15. In 2013 and 2017, personal computers and related accessories purchased for noncommercial home or personal use with a sales price of \$750 or less were exempted. In 2014 and 2015, the first \$750 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use were exempted. The following table describes the history of back-to-school sales tax holidays in Florida.

Dates	Length	TAX EXEMPTION THRESHOLDS				
		Clothing/ Footwear	Wallets/ Bags	Books	Computers	School Supplies
August 15-21, 1998	7 days	\$50 or less	N/A	N/A	N/A	N/A
July 31-August 8, 1999	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 29-August 6, 2000	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 28-August 5, 2001	9 days	\$50 or less	\$50 or less	N/A	N/A	\$10 or less
July 24-August 1, 2004	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 13-15, 2010	3 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 12-14, 2011	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 3-5, 2012	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 2-4, 2013	3 days	\$75 or less	\$75 or less	N/A	\$750 or less	\$15 or less
August 1-3, 2014	3 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 7-16, 2015	10 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 5-7, 2016	3 days	\$60 or less	\$60 or less	N/A	N/A	\$15 or less
August 4-6, 2017	3 days	\$60 or less	\$60 or less	N/A	\$750 or less	\$15 or less
August 3-5, 2018	3 days	\$60 or less	\$60 or less	N/A	N/A	\$15 or less

For the 2018-19 school year, 20 (30 percent) of Florida school districts held their opening day for students during the first full week of August (Aug. 6 – 10). Another 46 districts (69 percent) had opening days during the second week of August (Aug. 13-17). The remaining district had its opening day on August 20.

Hurricanes Preparedness Holidays-- Florida has enacted a “Disaster Preparedness” sales tax holiday five times since 2006. The length of the exemption periods has varied from three to 12 days. The type and value of exempt items has also varied. Certain items have been exempted at the same threshold for every holiday: reusable ice (\$10 or less), self-powered light sources (\$20 or less), fuel containers

(\$25 or less), batteries (\$30 or less), coolers and ice chests (\$30 or less), and tie down kits and waterproof sheeting (\$50 or less). Radios valued at \$50 or less were exempted in four periods, and radios valued at \$75 or less were exempted in the other period. Generators have been included in every period, but at different values. In 2006 and 2007, generators \$1000 or less were exempt. The 2014, 2017, and 2018 periods exempted generators \$750 or less. Early exemption periods also exempted cell phone batteries and chargers, storm shutters, and carbon monoxide detectors. The following table describes the history of disaster preparedness sales tax holidays in Florida.

Dates	Length	TAX EXEMPTION THRESHOLDS							
		Reusable Ice	Light Source	Fuel Containers	Batteries	Coolers and Ice Chests	Radios	Tie down tools and sheeting	Generators
May 21- June 1, 2006*	12 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$1000 or less
June 1- June 12, 2007*	12 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$75 or less	\$50 or less	\$1000 or less
May 31- June 8, 2014**	9 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$750 or less
June 2 – June 4, 2017	3 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$750 or less
June 1- 7, 2018	7 days	\$10 or less	\$20 or less	\$25 or less	\$30 or less	\$30 or less	\$50 or less	\$50 or less	\$750 or less

* This holiday also included cell phone batteries (\$60 or less), cell phone charger (\$40 or less), storm shutters (\$200 or less), carbon monoxide detectors (\$75 or less), and any combination of items exempt under the holiday or existing law which were sold together for \$75 or less.

** This holiday included an exemption for first aid kits selling for \$30 or less; however, these items are always exempt under s. 212.08(2)(a), F.S.; see form DR-46NT, *Nontaxable Medical Items and General Grocery List*, available at: http://floridarevenue.com/Forms_library/current/dr46nt.pdf.

In 2018, the Florida Office of Insurance Regulation estimated a gross probable loss of over \$6 billion due to Hurricane Michael in 2018,⁵ \$11 billion due to Hurricane Irma in 2017,⁶ \$1 billion due to hurricanes Hermine and Mathew in 2016,⁷ \$25 billion due to four hurricanes in 2004, and \$10.8 billion due to four hurricanes in 2005.⁸ Tropical Storm Fay was estimated to have resulted in \$242 million of damage in 2008.⁹ The Florida Division of Emergency Management recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit.¹⁰

Proposed Changes

The bill establishes a temporary back-to-school sales tax holiday in fiscal year 2019-20 and a temporary disaster preparedness sales tax holiday in 2019.

⁵ Florida Office of Insurance Regulation, Catastrophe Report, available at:

<https://flor.com/Office/HurricaneSeason/HurricaneMichaelClaimsData.aspx> (last visited March 27, 2019).

⁶ Florida Office of Insurance Regulation, Catastrophe Report, available at:

<https://www.flor.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx> (last visited March 27, 2019).

⁷ Florida Office of Insurance Regulation, Catastrophe Report, available at:

<https://flor.com/Office/HurricaneSeason/HurricaneMatthewClaimsData.aspx> (last visited March 27, 2019).

⁸ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at:

<http://www.flor.com/siteDocuments/HurricaneSummary20042005.pdf>

⁹ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at:

<http://www.flor.com/siteDocuments/HurricaneSummary2008.pdf>.

¹⁰ Florida Division of Emergency Management, *Disaster Supply Kit*, <https://www.floridadisaster.org/plan--prepare/disaster-supply-kit/> (last visited Feb. 15, 2018).

Back-to-School Holiday--A three-day sales tax holiday would be authorized from August 2, 2019, through August 4, 2019. During the holiday, the following items that cost \$60 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an “article of wearing apparel intended to be worn on or about the human body,” but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

The bill also exempts various “school supplies” that cost \$15 or less per item during the holiday.

Additionally exempted would be the first \$1,000 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use. This would include tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted. Also not exempt would be monitors that include a television tuner.

Disaster Preparedness Sales Tax Holiday-- The bill provides for a seven-day sales tax holiday from May 31, 2019, through June 6, 2019 for specified items related to disaster preparedness. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- A portable self-powered light source selling for \$20 or less;
- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- A ground anchor system or tie-down kit selling for \$50 or less;
- A gas or diesel fuel tank selling for \$25 or less;
- A package of AA-cell, AAA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- A nonelectric food storage cooler selling for \$30 or less;
- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less; and
- Reusable ice selling for \$10 or less.

The above sales tax holidays do not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

Additionally, the “back to school” sales tax holiday would be allowed to apply at the option of the dealer if less than five percent of the dealer’s gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2019, the dealer must notify DOR in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business. The bill authorizes the DOR to adopt emergency rules to implement the provisions of the tax holidays.

Property Taxation in Florida

Ad Valorem Exemption for Hospitals

Current Situation

Florida Charitable Property Tax Exemption

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,¹¹ and it provides for specified assessment limitations, property classifications and exemptions.¹² After the local property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.¹³ Such exemptions include, but are not limited to, exemptions for such portions of property used predominately for educational, literary, scientific, religious or charitable purposes.¹⁴

The Legislature implemented these constitutional exemptions and set forth the criteria used to determine whether property is entitled to an exemption for use as a charitable, religious, scientific, or literary purpose.¹⁵ Specific provisions exist for property for hospitals, nursing homes, and homes for special services;¹⁶ property used for religious purposes;¹⁷ educational institutions¹⁸ and charter schools;¹⁹ labor organization property;²⁰ nonprofit community centers;²¹ biblical history displays;²² and affordable housing.²³

In determining whether the use of a property qualifies the property for an ad valorem tax exemption, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.²⁴ Only the portions of the property used predominantly for qualified purposes may be exempt from ad valorem taxation. If the property owned by an exempt organization is used exclusively for exempt purposes, it shall be totally exempt from ad valorem taxation.

Charitable Organizations

Under federal law, an organization may only be tax-exempt if it is organized and operated for exempt purposes, including charitable and religious purposes.²⁵ None of the organization's earnings may benefit any private shareholder or individual, and the organization may not attempt to influence legislation as a substantial part of its activities. Charitable purposes include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government.

Florida law defines a charitable purpose as a function or service which is of such a community service that its discontinuance could legally result in the allocation of public funds for the continuance of the function or the service.²⁶

¹¹ Fla. Const., art. VII, s. 4.

¹² Fla. Const., art. VII, ss. 3, 4, and 6.

¹³ s. 196.031, F.S.

¹⁴ Fla. Const., art. VII, s. 3.

¹⁵ ss. 196.195 and 196.196, F.S.

¹⁶ s. 196.197, F.S.

¹⁷ ss. 196.1975(3) and 196.196(3), F.S.

¹⁸ s. 196.198, F.S.

¹⁹ s. 196.1983, F.S.

²⁰ s. 196.1985, F.S.

²¹ s. 196.1986, F.S.

²² s. 196.1987, F.S.

²³ s. 196.196(5), F.S.

²⁴ s. 196.196(1)(a)-(b), F.S.

²⁵ 26 U.S.C. § 501(c)(3).

²⁶ s. 196.012(7), F.S.

Determining Profit vs. Non-Profit Status of an Entity

Current law outlines the criteria a local property appraiser must consider in determining whether an applicant for a religious, literary, scientific, or charitable exemption is a nonprofit or profit-making venture for the purposes of receiving an exemption.²⁷ An applicant must provide the property appraiser with “such fiscal and other records showing in reasonable detail the financial condition, record of operations, and exempt and nonexempt uses of the property . . . for the immediately preceding fiscal year.”²⁸

The applicant must show that “no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose.”²⁹

Based on the information provided by the applicant, the property appraiser must determine whether the applicant is a nonprofit or profit-making venture or if the property is used for a profit-making purpose.³⁰ In doing so, the property appraiser must consider the reasonableness of various payments, loan guarantees, contractual arrangements, management functions, capital expenditures, procurements, charges for services rendered, and other financial dealings.

A religious, literary, scientific, or charitable exemption may not be granted until the property appraiser, or value adjustment board on appeal, determines the applicant to be nonprofit.³¹

Additional Criteria for Hospitals, Nursing Homes, and Homes for Special Services

In addition to the above criteria, hospitals³², nursing homes³³ and homes for special services³⁴ must be Florida non-profit corporations that are exempt organizations under the provisions of s. 501(c)(3) of the Internal Revenue Code.³⁵

In determining the extent of the exemption to be granted to hospitals, nursing homes, and homes for special services, portions of the property leased as parking lots or garages operated by private enterprise are not exempt from taxation.³⁶ Property or facilities which are leased to a nonprofit corporation which provides direct medical services to patients in a nonprofit or public hospital and qualify under s. 196.196 are exempt from taxation.³⁷

The charitable tax exemption received by hospitals currently reduces ad valorem tax revenues by approximately \$200 million annually.³⁸

Federal Charity Care Reporting Requirements

²⁷ s. 196.195, F.S.,

²⁸ s. 196.195(1), F.S.

²⁹ s. 196.195(3), F.S.

³⁰ s. 196.195(2)(a)-(e), F.S.

³¹ s. 196.195(4), F.S.

³² s. 196.012(8), F.S., “Hospital” means an institution which possesses a valid license granted under chapter 395 on January 1 of the year for which exemption from ad valorem taxation is requested

³³ s. 196.012(8), F.S., “Nursing home” or “home for special services” means an institution that possesses a valid license under chapter 400 or part I of chapter 429 on January 1 of the year for which exemption from ad valorem taxation is requested.

³⁴ Id; s. 400.801, F.S. “Home for special services” means a site licensed by AHCA prior to January 1, 2006, where specialized health care services are provided, including personal and custodial care, but not continuous nursing services.

³⁵ s. 196.197, F.S.

³⁶ Id.

³⁷ Id.

³⁸ Florida Department of Revenue and calculations by Ways and Means Committee staff.

To qualify for federal tax exemption, hospitals must report their community benefit activities to the Internal Revenue Service by filing IRS Form 990 and a supplemental Schedule H form. Community benefit activities include the net, unreimbursed costs of charity care (providing free or discounted services to patients who qualify under the hospital's financial assistance policy); participation in means-tested government programs, such as Medicaid; health professions education; health services research; subsidized health services; community health improvement activities; and cash or in-kind contributions to other community groups.³⁹ Net community benefit activities do not include revenue from uncompensated care pools or programs, such as Low Income Pool (LIP) or Disproportionate Share Hospital (DSH) funds.⁴⁰

Proposed Changes

The bill requires hospitals to demonstrate the value of charitable services they provide by submitting information from their IRS Form 990 and Schedule H filings attributable to the hospital properties seeking tax exemptions. Non-profit hospitals would be allowed to qualify for a property tax exemption the extent of the value of charitable services they provide as reported to the IRS, but not greater than the property's value. Specific computations for determining the extent of the exemption are set forth. The bill requires hospitals to provide a statement signed by the hospital's CEO and a certified public accountant that the information submitted is true and correct and that the hospital's policies for calculating the net community benefit expense are consistent with federal guidelines set by the IRS.

School Discretionary Operating Levies

Current Situation

Local governments, including counties, school districts, and municipalities have the constitutional authority to levy ad valorem taxes. Special districts may also be given this authority by law.⁴¹ Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions. Specifically regarding school districts, a district may not exceed ten mills when assessing ad valorem taxes on the value of real estate and tangible personal property.⁴²

School District Funding

School Districts that participate in the state appropriations for the Florida Education Finance Program (FEFP) must make the minimum financial effort required for the support of the FEFP as prescribed in each year's General Appropriations Act ("Act").⁴³ This is commonly known as the required local effort property tax levy. The Act provides school districts with their total annual allocation and prescribes that the funds be distributed periodically in accordance to the Act.

A school district may levy a nonvoted current operating discretionary millage in addition to the required local effort millage, yet the legislature may prescribe the maximum amount of millage a district may levy in the Act.⁴⁴ Also, a school board may levy up to 1.5 mills for a variety of capital outlay purposes for both charter schools and other public schools.⁴⁵ In addition to the maximum nonvoted operating millage above, a school district may levy millage for school operating purposes, effective for up to four years,

³⁹ James, Julia. Health Affairs, *Nonprofit Hospitals' Community Benefit Requirements* (2016), available at:

<https://www.healthaffairs.org/doi/10.1377/hpb20160225.954803/full/> (last viewed February 28, 2019); Department of the Treasury, Internal Revenue Service, *Instructions for Schedule H (Form 990)* (2018), on file with Health Market Reform Subcommittee Staff.

⁴⁰ Department of the Treasury, Internal Revenue Service, *Instructions for Schedule H (Form 990)* (2018), on file with Health Market Reform Subcommittee Staff.

⁴¹ FLA. CONST. art VII, s. 9.

⁴² FLA. CONST. art VII, s. 9(b).

⁴³ s. 1011.60(6), F.S.

⁴⁴ s. 1011.71(1), F.S.

⁴⁵ s. 1011.71(2), F.S.

by local referendum. The total amount of millage, combined with the all other nonvoted millages levied by the district may not exceed the 10-mill limit as prescribed in the State Constitution.⁴⁶

Currently, 15 jurisdictions have school district voting operating millage levies for fiscal year 2018-2019. An additional 7 jurisdictions have approved future levies. These jurisdictions, along with the voted levy amounts, are provided in the following charts:

Levying for FY 2018-19		
	<u>District</u>	<u>Millage Rate</u>
1	Alachua	1.00
2	Franklin	0.50
3	Gulf	1.00
4	Hamilton	0.25
5	Indian River	0.50
6	Manatee	1.00
7	Marion	1.00
8	Martin	0.50
9	Monroe	0.55
10	Orange	1.00
11	Palm Beach	0.25
12	Pinellas	0.50
13	Sarasota	1.00
14	Taylor	0.25
15	Walton	0.50

Approved for Future Levy		
	<u>District</u>	<u>Millage Rate</u>
1	Broward*	0.50
2	Charlotte**	1.00
3	Clay*	1.00
4	Lake*	0.75
5	Miami-Dade**	0.75
6	Monroe*	0.065
7	Palm Beach**	1.00

*--Approved August 2018
 **--Approved November 2018.

Charter School Funding

Section 1002.33(17), F.S., states “students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district.”

Charter school operations are funded through the FEFP the same as traditional public schools based on the number of students enrolled in the school. A charter school reports its total student enrollment to its sponsor⁴⁷ for inclusion in the district’s report of student enrollment.⁴⁸ A charter school’s share of FEFP funds is as determined by the following chart:

Calculating a Charter School’s Share of FEFP Funds⁴⁹
Sum of the school district’s operating funds from the FEFP as provided in s. 1011.62, F.S., and the General Appropriations Act, including the district’s gross state and local funds, discretionary lottery funds, and funds from the district’s current operating discretionary tax levies.

⁴⁶ s. 1011.71(9), F.S.

⁴⁷ A sponsor can be a district school board that approves the charter and holds the contract. Section 1002.33(5)(a)1., F.S.

⁴⁸ Section 1002.33(17)(a) and (b), F.S. To reflect any changes in enrollment, the charter school’s funding is recalculated during the school year, based upon the October and February FTE enrollment surveys. See s. 1002.33(17)(b), F.S.

⁴⁹ Section 1002.33(17)(b) and (c), F.S.

÷ The total funded weighted full-time equivalent students in the district.

x The weighted full-time equivalent students for the charter school.

Operating funds from the FEFP are distributed by the sponsor to the charter school, and the payments must be made monthly or bi-monthly, beginning with the start of the school board's fiscal year. In the first two years of a charter school's operation, the school board must distribute funds for the months of July through October based on the projected full-time equivalent (FTE) student membership if a minimum of seventy-five percent (75%) of the projected enrollment is entered into the sponsor's student information system by the first day of the fiscal year. If less than seventy-five percent (75%) of the projected enrollment is entered into the sponsor's system, the sponsor shall base payments on the actual number entered into the sponsor's student information system. The sponsor is prohibited from delaying payment of any portion of a charter school's funding based upon the timing of receipt of local funds by the school board. Thereafter, the full-time equivalent membership surveys must be used to determine the amount of the charter school's funding distribution.⁵⁰

Related Litigation

On June 13, 2017, a summary judgement was issued in *Indian River Charter High School, Inc. et al v. School Board of Indian River County, Fla. Case No. 31-2016-CA-000432*, holding that charter schools are entitled to receive funding from a voted levy for school operational purposes pursuant to s. 1011.71(9), F.S., pursuant to the formula set forth in s. 1002.33(17), F.S.

In *Academy for Positive Learning, Inc. v. School Board of Palm Beach County, 50-2019-CA-00405-XXXX-MB (Fla. 15th Cir. Ct.)*, initiated in January 2019, charter schools are arguing the school district, contrary to the districts action thus far, should share the recent voted, operating levy approved in Palm Beach County pursuant to s. 1011.71(9), F.S. This case is in its early stages.

Proposed Changes

The bill would amend s. 1011.71(9), F.S. to clarify that the term "school operational purposes" includes charter schools sponsored by a school district, for the purpose of distributing taxes collected under the additional, voted operational millage. The funds levied by this voted millage would be shared proportionately with charter schools as provided under s. 1002.33(17), F.S., and must be used by the charter schools in a manner consistent with the purposes of the levy.

Additionally, the bill would amend ss. 1002.33(17), F.S. to clarify that a "school district's current operating discretionary levy" includes the voted levies authorized pursuant to section 1011.71, F.S., as part of the charter school funding calculations.

These new provisions would apply to collections after July 1, 2019.

Distribution to Fiscally Constrained Counties as a Result of Homestead Property Damaged or Destroyed by Natural Disaster in 2017

Current Situation

Tax Relief for Natural Disasters

In 2018, the Legislature provided tax relief for the victims of Hurricanes Hermine, Matthew, and Irma by providing a relief credit⁵¹ for homestead parcels on which the defined residential improvements were

⁵⁰ Section 1002.33(17)(e), F.S.

⁵¹ The law defines "disaster relief credit" as the product arrived at by multiplying the damage differential by the amount of timely paid taxes that were initially levied in the year the natural disaster occurred.

damaged or destroyed by one of these hurricanes.⁵² If the residential improvement was rendered uninhabitable for at least 30 days due to a hurricane that occurred during the 2016 or 2017 calendar year, taxes initially levied in 2019 were able to be abated.

The tax credit was in the form of a refund. The amount of the credit reflected the value of the homestead structure for the portion of 2016 or 2017 that the structure was uninhabitable as a consequence of hurricane damage.

To receive the tax abatement, the property owner was required to submit an application to the property appraiser by March 1, 2019. A property owner who failed to submit the application by March 1, 2019, waived a claim for abatement of taxes from the natural disaster. The application required the property owner to identify the residential parcel on which the residential improvement was damaged or destroyed, the hurricane that caused the damage or destruction, the date the damage or destruction occurred, and the number of days the property was uninhabitable during either the 2016 or 2017 calendar year.⁵³

Upon receipt of the application, the property appraiser was required to investigate the statements contained therein and determine if the property owner qualified for the disaster relief credit. If the property appraiser determined that the property owner was not entitled to the tax abatement, the property owner could file a petition with the value adjustment board. If the property owner qualified, the property appraiser was directed to issue an official written statement to the tax collector by April 1, 2019, containing:

- The number of days during the calendar year in which the natural disaster occurred that the residential improvement was uninhabitable.⁵⁴
- The just value of the residential parcel on January 1, 2016 or 2017.
- The post-disaster just value of the residential parcel, as determined by the property appraiser.
- The percent change in value applicable to the residential parcel.⁵⁵

The tax collector is to use the property appraiser's written statement to calculate the value of the damage differential and disaster relief credit and process a refund in an amount equal to the disaster relief.⁵⁶

The tax collector must notify DOR and the governing board of each affected local government of the total reduction in taxes of all property receiving a credit pursuant to this section. The law applied retroactively to January 1, 2016, and expires January 1, 2021.

The law also amended s. 194.032, F.S., to provide that value adjustment boards may hear appeals pertaining to tax abatements under the newly created s. 197.318, F.S.

The law also created s. 218.131, F.S., requiring the legislature to appropriate funds to offset the reduction in ad valorem tax revenue in taxing jurisdictions in Monroe County and fiscally constrained counties which occur as a direct result of the implementation of s. 197.318, F.S. The affected taxing jurisdictions must apply to DOR and provide supporting documentation to receive the appropriation. The appropriations are to be distributed to the affected taxing jurisdictions in January 2020 in proportion of the total reduction in ad valorem tax revenue resulting from the implementation of s. 197.318, F.S.

⁵² See s. 197.318, as created in Section 17 of Chapter 2018-118, L.O.F.

⁵³ The required application elements were included on form DR-463, *Application for Abatement of Taxes for Homestead Residential Improvements*, adopted by the Department of Revenue and available at: <http://floridarevenue.com/property/Documents/dr463.pdf> (last visited March 28, 2019).

⁵⁴ To qualify for the disaster relief credit, the residential improvement must be uninhabitable for at least 30 days.

⁵⁵ The statute defines the "percent change in value" as the difference between the residential parcels just value as of Jan. 1, 2017, and its postdisaster just value expressed as a percentage of the parcel's just value as of Jan. 1, 2017.

⁵⁶ The statute defines "damage differential" as the product arrived at by multiplying the percent change in value by a ratio, the numerator of which is the number of days the residential improvement was rendered uninhabitable, the denominator of which is 365.

Proposed Changes

The bill extends from January 2020 to June 2020 the timing of distributions to taxing jurisdictions in fiscally constrained and Monroe counties, to allow sufficient time for the Legislature to determine the necessary appropriation in the 2020 legislative session based on actual data instead of estimates.

Review of Assessment Rolls

Current Situation

Section 195.096, F.S., states that the assessment rolls of each county shall be subject to review by the Department of Revenue (DOR). Furthermore, DOR is required to conduct an in-depth review of the assessment rolls of each county at least once every two years and report the results of its review to specified legislative staff and county officials. In conducting the assessment ratio studies, the department must adhere to the standards to which the property appraisers are required to adhere to and use all practicable steps to maximize the representativeness or statistical reliability of the samples of properties reviewed. However, when statistically valid ratio studies are not available, the statute does not provide the department with flexibility, such as using the best available data, in reaching a level of assessment conclusion for in-depth reviews of assessment rolls.

For counties not subject to an in-depth review, section 195.096(3)(b), F.S., allows the department, if necessary, to project the level of assessment for those counties based on the best information available using professionally accepted methodology.

Following a natural disaster, conducting statistical and analytical reviews of assessment rolls may be difficult. Annual market data before a disaster does not reflect post-disaster conditions, and immediately following a disaster, normal market transactions are limited. As a result, during the years following a natural disaster, statistically valid and reliable ratio studies are not always available.

Proposed Changes

The bill amends s. 195.096(2), F.S. to allow DOR more flexibility in estimating a county's level of assessment in one or more assessment years following a natural disaster in counties in which a state of emergency has been declared. If the department determines that the natural disaster creates difficulties in its statistical and analytical reviews of the assessment rolls in the affected counties, the department is required to take all practicable steps to maximize the representativeness and reliability of its statistical and analytical reviews and use the best information available to estimate levels of assessment.

Other

Telehealth Tax Credit

Current Situation

Insurance Premium Tax and Credits

Florida's insurance premium tax was established in 1895 as an annual tax of 1% of gross receipts of insurance premiums (except for life insurance) on each insurance company doing business within the state.⁵⁷ Today, the insurance premium tax is set at 1.75% on insurance premiums written in Florida and paid by insurance companies to the Department of Revenue (DOR).⁵⁸ In addition to the insurance

⁵⁷ Chapter 4322, Laws of Fla., codified as Title VI, ch. 1, s. 464, F.S.

⁵⁸ Section 624.509, F.S. Different tax rates apply to wet marine and transportation insurance, self-insurance, and annuity premiums.)

premium tax imposed under Chapter 624, F.S., municipalities and fire control districts are authorized to impose excise taxes on insurers that do business within their jurisdictions for the purpose of funding the pensions of police and firefighters. Police pensions are funded by 0.85 percent excise taxes on the premiums for casualty insurance on property within the jurisdiction;⁵⁹ firefighters' pensions are funded by a 1.85 percent tax on property insurance premiums.⁶⁰ These taxes are fully offset by credits against the state insurance premium tax.⁶¹

In order to provide funds for emergency management, preparedness, and assistance, an annual surcharge of \$2 per policy is imposed on every homeowners, mobile home owners, tenant homeowners, and condominium unit owners policy, and an annual \$4 surcharge is imposed on every commercial fire, commercial multiple peril, and business owner's property insurance policy, issued or renewed on or after May 1, 1993.⁶² The surcharge is paid by the policyholder to the insurer. Also, every domestic, foreign, and alien insurer authorized to engage in the business of fire insurance in the State of Florida is subject to a State Fire Marshal regulatory assessment equal to one percent of the gross amount of premiums collected on policies of fire insurance issued and insuring property in the State of Florida.⁶³ A State Fire Marshal surcharge is collected from each holder of a policy of fire, allied lines, or multiperil insurance insuring commercial property located in this state.⁶⁴ The surcharge is imposed at a rate of 0.1 percent on the gross direct premium written on commercial property located in this state.⁶⁵

It is estimated that DOR will collect \$777.2 million in insurance premium tax and related surcharges in FY 2018-2019.⁶⁶ This revenue is distributed to general revenue and various trust funds.⁶⁷

Fiscal Year	Receipts		Distributions [†]			
	Collections	Annual Change	General Revenue	Insurance Regulatory Trust Fund	Police & Firefighters Premium Tax Trust Fund	Emergency Management Preparedness & Assistance Trust Fund
2018-19 [*]	\$777,200,000	-0.08%	\$537,100,000	\$38,800,000	\$187,500,000	\$15,000,000
2017-18 [*]	\$777,800,000	8.16%	\$544,000,000	\$37,500,000	\$179,900,000	\$14,800,000
2016-17	\$719,147,973	2.16%	\$497,000,000	\$36,500,000	\$172,300,000	\$15,000,000
2015-16	\$703,914,531	2.18%	\$471,500,000	\$37,500,000	\$175,900,000	\$14,500,000
2014-15	\$688,898,528	-3.23%	\$466,500,000	\$36,700,000	\$169,700,000	\$13,900,000
2013-14	\$711,866,203	1.43%	\$470,500,000	\$39,700,000	\$173,100,000	\$13,600,000
2012-13	\$701,799,289	-0.21%	\$477,000,000	\$38,300,000	\$165,900,000	\$13,600,000

* Estimate
[†] Distributions do not equal collections due to beginning and ending cash balances and refunds.

Section 624.5091, F.S., requires out of state insurance to pay retaliatory taxes to the state.⁶⁸ These retaliatory taxes are levied in almost every state⁶⁹ and help ensure a level playing field by preventing

⁵⁹ Section 185.08, F.S.

⁶⁰ Section 175.101, F.S.

⁶¹ Section 624.509(4), F.S.

⁶² Section 252.372, F.S.

⁶³ Section 624.515(1), F.S.

⁶⁴ Section 624.515(2), F.S.

⁶⁵ *Id.*

⁶⁶ Florida Revenue Estimating Conference, *2018 Florida Tax Handbook*, p. 112, available at

<http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2018.pdf> (last visited February 9, 2019).

⁶⁷ *Id.*

⁶⁸ Section 624.5091, F.S.

⁶⁹ Florida Revenue Estimating Conference, *2018 Florida Tax Handbook*, p. 115, available at

<http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2018.pdf> (last visited February 9, 2019).

companies from choosing to locate in one state in order to lower their insurance premium taxes.⁷⁰ Insurance companies are permitted to receive an employees' salary credit and corporate income tax credit against insurance premium taxes.^{71,72}

Corporate Income Tax and Credit

Florida imposes a 5.5% tax on the taxable income of all corporations doing business in the state.⁷³ The determination of taxable income for Florida tax purposes begins with the taxable income used for federal income tax purposes.⁷⁴ This means that a corporation paying taxes in Florida generally receives the same benefits from deductions allowed in determining its federal taxable income. With federal taxable income as a starting point, Florida law then requires a variety of additions and subtractions to reflect Florida-specific policies to determine Florida taxable income. The Florida corporate income tax uses a three-factor apportionment formula consisting of property, payroll, and sales (which is double-weighted) to measure the portion of a multistate corporation's business activities attributable to Florida.⁷⁵ Income that is apportioned to Florida using this formula is then subject to the Florida income tax.

Corporate income taxes paid by any insurer are credited against the liability for insurance premium tax for the annual period in which such tax payments are made.⁷⁶ The total of the credit granted for corporate income taxes⁷⁷ and the Florida employees salary credit may not exceed 65 percent of the insurance premium tax due after deducting taxes paid by the insurer for certain pension funds and assessments.⁷⁸

In FY 2018-19, the corporate income tax credit is estimated to reduce insurance premium tax revenue by \$259.1 million.⁷⁹

Proposed Changes

For tax years beginning on or after January 1, 2020, and before January 1, 2025, the bill creates a telehealth tax credit for any health insurer or health maintenance organization (HMO) that covers services provided by telehealth. The tax credit may be taken against any corporate income tax or insurance premium tax liability incurred by a health insurer or HMO. The tax credit does not affect the emergency management surcharge, the fire marshal regulatory assessment and surcharge or the municipal police and firefighter pension excise taxes. The tax credit is one tenth of one percent of the total insurance premiums received on accident or health insurance policy or plans issued in Florida that provide medical, major medical, or similar comprehensive coverage. The Office of Insurance Regulation (OIR) must confirm the coverage to the Department of Revenue (DOR). The bill authorizes an unused tax credit or portion thereof to be carried forward for a period not to exceed five years.

The bill authorizes DOR, in addition to its existing audit and investigation authority, additional authority to perform financial and technical audits and investigations to verify eligibility for the telehealth tax

⁷⁰ Office of Program Policy Analysis and Government Accountability, *The Corporate Income Tax Credit Scholarship Program Saves the State Dollars*, Report No. 08-68, December 2008, available at <http://www.oppaga.state.fl.us/reports/pdf/0868rpt.pdf> (last visited February 25, 2019).

⁷¹ Section 624.509(4), F.S.

⁷² Section 624.509(5), F.S.

⁷³ Section 220.11, F.S.

⁷⁴ Sections 220.12 and 220.13, F.S.

⁷⁵ s. 220.15, F.S.

⁷⁶ Florida Senate Committee on Finance and Tax, *An Overview of Florida's Insurance Premium Tax*, October 2006, available at http://archive.flsenate.gov/data/Publications/2007/Senate/reports/interim_reports/pdf/2007-122ftlong.pdf (last visited on February 25, 2019).

⁷⁷ Section 624.509(4), F.S.

⁷⁸ *Id.*

⁷⁹ Florida Revenue Estimating Conference, *2018 Florida Tax Handbook*, p. 115, available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2018.pdf> (last visited February 9, 2019).

credit. Such audits and investigations may include examining the accounts, books, and records of the health insurer or HMO. The bill also directs OIR to provide technical assistance upon request by DOR on any audits or investigations it performs. If DOR discovers that a health insurer or health maintenance organization received a telehealth tax credit for which it was not entitled, DOR is authorized to pursue recovery of the funds in accordance to the law.

The bill authorizes a health insurer or HMO to transfer a telehealth tax credit in whole or in part to another taxpayer by written agreement. To perfect the transfer, the transferor must provide a written statement to DOR that states:

- The transferor's intent to transfer the tax credit to the transferee;
- The date the transfer is effective;
- The transferee's name, address, and federal taxpayer identification number;
- The tax period; and
- The amount the tax credit to be transferred.

Upon receipt of the transfer statement, DOR will issue a certificate reflecting the transferred credit amount, a copy of which must be attached to each tax return for which the transferee seeks to apply the credit.

An insurer that claims the telehealth tax credit is not required to pay any additional retaliatory tax, as a result of claiming such a credit.

DOR and OIR are authorized to adopt rules to administer the telehealth tax credit, including rules regarding implementation and administration of the tax credit and forms needed to claim the telehealth tax credit.

These provisions of the bill take effect only if HB 23, or similar legislation, is adopted in the same legislative session.

Florida Tax Credit Scholarship Program- Insurance Premium Tax Credit Flexibility

Current Situation

The Florida Tax Credit Scholarship Program is funded with contributions to private non-profit scholarship-funding organizations from taxpayers who receive a tax credit for use against their liability for corporate income tax; insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders; or alcoholic beverage taxes on beer, wine and spirits.⁸⁰ The credit is equal to 100 percent of the eligible contributions made.⁸¹ To receive a credit the taxpayer must submit an application to DOR and specify each tax for which the taxpayer requests a credit and the applicable taxable or state fiscal year for the credit.⁸² Taxpayers can rescind tax credits, which will become available to another eligible taxpayer in that fiscal year.⁸³

The maximum amount of tax credits that may be awarded in FY 2018-19 is \$873.6 million. The Revenue Estimating Conference estimates that contributions applicable against this limit will be \$687.8 million in FY 2018-19.⁸⁴ In any state fiscal year when the annual tax credits granted for the prior state fiscal year are equal to or greater than 90 percent of the tax credit cap amount applicable to that state

⁸⁰ See s. 1002.395(6)(m), F.S.

⁸¹ See ss. 1002.385(9), F.S., 1002.29(9), F.S., and 1002.395(9), F.S.

⁸² Sections 1002.395(1) and (5), F.S.

⁸³ Sections 220.1875 and 1002.395(5), F.S.

⁸⁴ Florida Revenue Estimating Conference, Adopted Scholarship Credits, available at:

<http://edr.state.fl.us/Content/conferences/generalrevenue/grscholarshiptaxcreditestimates.pdf> (last visited March 27, 2019)

fiscal year, the tax credit cap amount is increased by 25 percent.⁸⁵ As the estimated contributions for 2018-2019 do not exceed 90 of the tax credit cap amount for this year, the maximum amount of tax credits expected to be available for award in FY 2019-20 will likely continue at the current \$873.6 million level.

Insurers who wish to use the tax credit against insurance premium tax liabilities may take the credit against the tax due for a taxable year after deducting from that amount:

1. Deductions for assessments made pursuant to s. 440.51, F.S. - Workers' Compensation Administrative Assessments;
2. Credits for taxes paid under ss. 175.101 and 185.08, F.S. - Firefighters' and Police Officers' Pension Trust Funds;
3. Credits for income tax paid under ch. 220, F.S.; and
4. Credit allowed under s. 624.509(5), F.S., as such credit is limited by Section 624.509(6), F.S.⁸⁶

Insurers seeking a credit against insurance premium tax must make the contribution by the end of the calendar year for which the credit will be taken. If the contribution and corresponding credit exceed the taxpayer's liability for that year, it can be carried forward. The current carryforward period is ten years.⁸⁷

For purposes of determining penalties for underpayment of insurance premium tax installment payments, insurers may currently apply a credit only against the installment payment immediately following the contribution.⁸⁸

Proposed Changes

The bill revises the timing provisions for certain contributions so that an insurer can apply for an allocation and/or make a contribution for a given taxable year up until the date the insurer is required to file a return for that year, which is no later than the following March 1. When a taxpayer makes a contribution and earns a credit, the taxpayer will also be able to apply the credit against any installment payment for the taxable year against which the credit is being taken, rather than only the installment payment following the contribution. This retroactive application against installment payments may reduce or eliminate penalties that would otherwise apply.⁸⁹

B. SECTION DIRECTORY:

- Section 1. Amends s. 195.096, F.S., to authorize Department of Revenue to change the methodology for statistical and analytical reviews for assessment purposes if affected by natural disasters.
- Section 2. Amends s. 196.197, F.S., relating to additional provisions for exempting property used by hospitals, nursing homes, and homes for special services.
- Section 3. Amends s. 212.031(1), F.S., to reduce the business rent tax from 5.7% to 5.35% beginning in calendar year 2020.
- Section 4. Amends s. 218.131, F.S., to revise the timing of distribution funds to offset the reductions in ad valorem tax revenue experienced by fiscally constrained counties, and all taxing jurisdictions within such counties, as a result of the abatement program found in s. 197.318, F.S.

⁸⁵ Section 1002.395(5)(a), F.S.

⁸⁶ Section 624.51055(1), F.S.

⁸⁷ Section 1002.395(5)(c), F.S.

⁸⁸ Section 1002.395(5)(g)2., F.S.

⁸⁹ Similar language currently exists for the corresponding credit against corporate income tax. *See* s. 1002.395(5)(g), F.S.

- Section 5. Creates s. 220.197, F.S., to create a corporate income tax credit for certain taxpayers who cover services provided by telehealth.
- Section 6. Amends s. 624.509, F.S., to create an insurance premium tax credit for certain taxpayers who cover services provided by telehealth.
- Section 7. Amends s. 624.51055, F.S., to revise contribution deadlines for an insurance premium tax credit.
- Section 8. Amends s. 1002.33, F.S., to require that students of charter schools and students of other public schools in a school district are provided proportionate funding from millages levied by school districts.
- Section 9. Amends s. 1002.395, F.S., to provide clarifications of timing provisions for applications for and contributions to the Florida Tax Credit Scholarship Program by taxpayers seeking a credit against insurance premium tax, and to provide that such credits may be applied retroactively when determining penalty amounts.
- Section 10. Amends s. 1011.71, F.S., to provide that charter schools sponsored by a school district are to be included for purposes of distributing the voted millage amounts levied by the school district.
- Section 11. Provides an exemption from the sales and use tax for the retail sale of certain supplies related to disaster preparedness during a specified period.
- Section 12. Provides an exemption from the sales and use tax for the retail sale of certain clothes, school supplies, and personal computers and personal computer-related accessories during a specified period; provides an appropriation.
- Section 13. Provides an appropriation for implementing the provisions of the act.
- Section 14. Provides that amendments made by this act to ss. 624.51055 and 1002.395, F.S., apply to taxable years beginning on or after January 1, 2019.
- Section 15. Provides that amendments made by this act to ss. 1011.71 and 1002.33, F.S., apply to revenues collected on or after July 1, 2019.
- Section 16. Provides the DOR with emergency rulemaking authority to administer the sales tax holidays created by the act.
- Section 17. Provides that the effective date for sections 5 and 6 of the act is the same as the effective date for HB 23 or similar legislation.
- Section 18. Provides effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce the sales tax on the rental of commercial real estate. The bill provides for a three-day back-to-school sales tax holiday and a seven-day disaster preparedness sales tax holiday.

D. FISCAL COMMENTS:

The total impact of the bill in FY 2019-20 is -\$102.6 million (-\$144.1 million recurring) of which -\$85.4 million (-\$131.1 million recurring) is on General Revenue, and -\$17.2 million (-\$13.0 million recurring) is on local government (see table below). Total tax reductions embodied in the bill are represented by the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The total of -\$191.2 million in tax reductions is the sum of -\$144.1 million (recurring, excluding appropriations), and -\$47.1 million (pure nonrecurring in FY 2019-20).

Appropriations Detail—The \$328,319 in appropriations contemplated in the bill consists of \$237,000 to implement the “back-to-school” sales tax holiday, and \$91,319 for programming changes and certain taxpayer notifications. Most of the above appropriations are needed to pay the cost of notifying several hundred thousand sales tax dealers of either the temporary or permanent law changes.

CS/HB 7123

Fiscal Year 2019-20 Estimated Fiscal Impacts (millions of \$)

	General Revenue		State Trust Funds		Local		Total	
	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.
<u>Sales Tax</u> : Business Rent Tax/0.35% Rate Cut	(47.9)	(99.9)	(*)	(*)	(6.2)	(13.0)	(54.1)	(112.9)
<u>Sales Tax</u> : Tax Holiday/"Back-to-School"	(31.7)	-	(*)	-	(9.9)	-	(41.6)	-
<u>Sales Tax</u> : Tax Holiday/Disaster Preparedness	(4.4)	-	(*)	-	(1.1)	-	(5.5)	-
<u>Ins. Premium Tax</u> : Telehealth Credits	-	(30.1)	-	-	-	-	-	(30.1)
<u>Ins. Premium Tax</u> : Scholarships/Timing Flexibility	(1.1)	(1.1)	-	-	-	-	(1.1)	(1.1)
<u>Ad Valorem</u> : Hospitals Exemption/Charity Care	-	-	-	-	-	**	-	**
<u>Ad Valorem</u> : School Voted Taxes/Clarify Use	-	-	-	-	-	-	-	-
<u>Ad Valorem</u> : Small County Hurricane Losses/Date Change	-	-	-	-	-	-	-	-
<u>Appropriations</u> : Tax Holidays & Other	(0.33)	-	-	-	-	-	(0.33)	-
2019-20 Total	(85.4)	(131.1)	-	-	(17.2)	(13.0)	(102.6)	(144.1)
							Pure Nonrecurring =	(47.1)
							Recurring + Pure Nonrecurring (2) =	(191.2)

(*) Impact less than \$50,000; (**) Impact is indeterminate.
 (1) Ad valorem tax impacts assume current tax rates.
 (2) Recurring tax cut total (excl. appropriations) = **-\$144.1 million**
Pure nonrecurring tax cuts in FY 2019-20= **-\$47.1 million**
-\$191.2 million

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The DOR has general rulemaking authority to create rules governing the taxes it administers. The bill authorizes DOR to adopt emergency rules to implement several changes in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 16, 2019, the Appropriations Committee adopted three amendments and reported the bill favorably as a committee substitute. The first amendment removed a proposed penalty for school districts that fail to share voted discretionary operating millages with charter schools, and clarifies that amounts shared with charter schools must be used in accordance with the purpose of the levy. The second amendment created a five-year tax credit for health insurers and health maintenance organizations that cover services provided by telehealth. The third amendment added a provision to clarify that hospitals that benefit from a charitable ad valorem property exemption must certify that they calculated the exemption in accordance with applicable federal guidelines.

This analysis is drafted to the committee substitute as passed by the Appropriations Committee.