

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 571 Vehicle and Vessel Registration Data and Functionality

**SPONSOR(S):** State Affairs Committee, Transportation & Infrastructure Subcommittee, Fernandez-Barquin

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1086

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	15 Y, 0 N, As CS	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee	12 Y, 0 N	Hicks	Davis
3) State Affairs Committee	19 Y, 0 N, As CS	Roth	Williamson

### SUMMARY ANALYSIS

Tax collectors are authorized agents of the Department of Highway Safety and Motor Vehicles (DHSMV) who issue motor vehicle and vessel registration certificates, motor vehicle registration license plates and validation stickers, and vessel numbers and decals to applicants. Tax collectors are authorized to collect specified service fees in exchange for providing registration and titling services. In certain counties, private license plate agents (sometimes referred to as "private tag agents") also provide registration and titling services. These license plate agents are typically authorized by county ordinance to charge service fees to consumers in addition to the fees authorized in Florida Statutes.

The Florida Real Time Vehicle Information System (FRVIS) is the database application maintained by DHSMV to issue and account for tags, titles, and registrations for motor vehicles and vessels. FRVIS must be installed in every tax collector's and license plate agent's office in accordance with a schedule established by DHSMV in consultation with the tax collectors and contingent upon funds being made available for the system by the state.

The bill requires tax collectors who enter into contracts with license plate agents to determine additional service charges that will be collected by such agents for motor vehicle and vessel titles and registrations, and requires such service charges to be fully itemized and disclosed to the customer. Additionally, the license plate agent must enter into a contract with the tax collector regarding the disclosure of additional service charges.

The bill requires that DHSMV, upon a tax collector's request, to provide tax collectors and their approved vendors with the same data access and interface functionality that the department provides to other third parties, including, but not limited to, bulk data for vehicle and vessel registrations and each applicant's current residential address and electronic mail address. Such data and functionality may be used only for purposes of fulfilling the tax collector's statutory duties and may not be resold or used for any other purpose. The bill requires the tax collectors' approved vendors to protect customer privacy and data collection. Finally, the bill requires tax collectors and their approved license plate agents to enter into a Memorandum of Understanding with DHSMV regarding the use of FRVIS.

The bill appears to have an indeterminate negative fiscal impact on state government and an indeterminate positive fiscal impact on local governments. See Fiscal Analysis for details.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

Upon the receipt of an initial application for registration and payment of the appropriate license tax and other fees required by law, the Department of Highway Safety and Motor Vehicles (DHSMV) must assign to the motor vehicle a registration license number consisting of letters and numbers and issue the owner a certificate of registration and a registration license plate.<sup>1</sup> For each registration period after the one in which the metal license plate is issued, and until the license plate is required to be replaced, a validation sticker showing the month and year of expiration must be issued upon payment of the proper license tax amount and fees and is valid for not more than 12 or 24 months accordingly.<sup>2</sup>

DHSMV is also responsible for issuing vessel registrations.<sup>3</sup> Applications for titles and registrations must be filed at a county tax collector's office.<sup>4</sup> The certificate of registration must be pocket-sized and be available for inspection on the vessel for which it is issued whenever such vessel is in operation.<sup>5</sup> Additionally, a decal signifying the year or years during which the certificate is valid must be furnished by DHSMV with each certificate of registration issued and affixed to the front of the vessel.<sup>6</sup>

DHSMV maintains the Florida Real Time Vehicle Information System (FRVIS) that facilitates the collection of taxes and fees for tags, titles, and registrations associated with motor vehicles and vessels.<sup>7</sup> Local tax collector and license plate agent offices throughout the state process tag, title, and registration transactions through FRVIS.<sup>8</sup> According to DHSMV, FRVIS processed approximately 413.1 million transactions for the collection of approximately \$3.22 billion in revenue from taxes and fees associated with tags, titles, and registrations for motor vehicles and vessels during Fiscal Year 2018-2019, including amounts retained by tax collectors and private license plate agents.<sup>9</sup> A fee of 50 cents is charged on every registration sold to cover the costs of operating and maintaining FRVIS. The fee may only be used to fund FRVIS, networks used in tax collector offices, and ancillary technology necessary to integrate FRVIS with other tax collection systems.<sup>10</sup>

In addition to residential street addresses, DHSMV may collect and store e-mail addresses in FRVIS. E-mail addresses may be used, in lieu of the United States Postal Service, to provide certain renewal notices, including registration renewal notices, driver license renewal notices, and vessel registration renewal notices.<sup>11</sup>

Tax collectors are authorized agents of DHSMV that issue motor vehicle and vessel registration certificates, motor vehicle registration license plates and validation stickers, mobile home stickers, and vessel numbers and decals to applicants.<sup>12</sup> The law specifies the service fees tax collectors are authorized to collect in exchange for providing these registration and titling services.<sup>13</sup> Each tax collector must keep a full and complete record and account of all validation stickers, mobile home

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<sup>1</sup> Section 320.06(1)(a), F.S.

<sup>2</sup> Section 320.06(1)(c), F.S.

<sup>3</sup> Section 328.48(3), F.S.

<sup>4</sup> Section 328.48(1)(a), F.S.

<sup>5</sup> Section 328.48(4), F.S.

<sup>6</sup> Section 328.48(5), F.S.

<sup>7</sup> DHSMV, *Florida Real Time Vehicle Information System (FRVIS): Information Technology Operational Audit*, at 1 (April 2014), available at [https://flauditor.gov/pages/pdf\\_files/2014-183.pdf](https://flauditor.gov/pages/pdf_files/2014-183.pdf) (last visited February 10, 2020).

<sup>8</sup> *Id.* at 1-2.

<sup>9</sup> E-mail from Kevin Jacobs, Deputy Legislative Affairs Director, DHSMV, RE: HB 571, (December 19, 2019). On file with the Transportation & Infrastructure Subcommittee.

<sup>10</sup> Section 320.03(5), F.S.

<sup>11</sup> Sections 319.40, 320.95, 322.08(10), 328.30, and 328.80, F.S.

<sup>12</sup> Sections 320.03(1) and 328.73(1), F.S.

<sup>13</sup> *See* ss. 320.04 and 319.32, F.S.

stickers, vessel decals, or other properties received by him or her from DHSMV.<sup>14</sup> FRVIS must be installed in every tax collector's and license tag agent's office in accordance with a schedule established by DHSMV in consultation with the tax collectors and contingent upon funds being made available for the system by the state.<sup>15</sup>

Although Florida law references "license tag agents" and "private tag agents" in various motor vehicle license provisions,<sup>16</sup> there are no statutory provisions that expressly authorize DHSMV or tax collectors to enter into agreements with private license tag agents to provide these services. However, according to DHSMV, there are 55 private license tag agencies within the state.<sup>17</sup> Most of these private agents are located in counties that do not have an elected tax collector (specifically, Miami-Dade and Broward Counties) and contract with the county to be a branch office for the county tag agency.<sup>18</sup> Additionally, these private license tag agents are authorized by county ordinance to charge fees to consumers in addition to the fees authorized in Florida Statutes.<sup>19</sup>

According to DHSMV, the department enters into a Memorandum of Understanding (MOU) with tax collectors and private license plate agents, which are license tag agents, to ensure DHSMV retains oversight of such agents by providing that:

- Agents are subject to any restrictions, limitations, or conditions enacted by the Florida Legislature;
- Tax collectors and DHSMV may perform quality assurance audits;
- Agents are subject to information confidentiality agreements and must retain records as required by the state;
- DHSMV may, at any time during normal business hours, without prior notice, inspect and audit all registration records and processes required by such agreement; and
- DHSMV has sole discretion to terminate such agreement for cause.<sup>20</sup>

### Effect of Proposed Changes

The bill provides that, in exercising his or her authority to contract with a license plate agent, the tax collector must determine additional service charges that will be collected for motor vehicle and vessel titles and registrations, and requires such service charges be fully itemized and disclosed to the customer. Additionally, the license plate agent must enter into a contract with the tax collector regarding the disclosure of additional service charges.

The bill provides that for purposes of eligible uses of the existing FRVIS fee, "other tax collection systems" may include technology systems provided by vendors contracted with the tax collector for in-person transactions of motor vehicle and mobile home registration certificates, registration license plates and validation stickers, and online motor vehicle and mobile home registration renewals and validation stickers. Other tax collection systems do not include DHSMV's electronic filing system. Additionally, the bill authorizes other tax collection systems to include technology systems provided by vendors contracted with the tax collector for in-person and online vessel registration certificates and vessel numbers and decals.

The bill requires DHSMV, upon a tax collector's request, to provide tax collectors and their approved vendors with the same data access and interface functionality that DHSMV provides to other third

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<sup>14</sup> Sections 320.03(3) and 328.73(2), F.S.

<sup>15</sup> Section 320.03(4)(b), F.S.

<sup>16</sup> See ss. 320.03(4) and (8), and 320.04(1) and (2), F.S.

<sup>17</sup> E-mail from Kevin Jacobs, Deputy Legislative Affairs Director, DHSMV, RE: license tag agents follow-up, (Feb. 21, 2020). On file with the Transportation & Infrastructure Subcommittee.

<sup>18</sup> The Florida Senate, *Interim Project Report 2007-138, Services Provided by License Tag Agents* (Oct. 2006), available at [http://archive.flsenate.gov/data/Publications/2007/Senate/reports/interim\\_reports/pdf/2007-138tr.pdf](http://archive.flsenate.gov/data/Publications/2007/Senate/reports/interim_reports/pdf/2007-138tr.pdf), at p.5. (last visited Feb. 20, 2020).

<sup>19</sup> For an example of such county regulations and a fee schedule, see Miami-Dade Implementing Order No.: 4-83, *Rules Regulations and Fee Schedule for Branch Auto Tag Agencies and Fees Paid by Agencies to the County* (Sept. 2007) available at <http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/ao4-83.pdf> (last visited Feb. 20, 2020).

<sup>20</sup> E-mail from Kevin Jacobs, *supra*, at FN 17.

parties. The accessible data includes, but is not limited to, bulk data for vehicle and vessel registrations and each applicant's current residential address and electronic mail address collected pursuant to s. 320.95, F.S. Such data and functionality may be used only for purposes of fulfilling the tax collector's statutory duties and may not be resold or used for any other purpose. The bill requires the tax collectors' approved vendors to protect customer privacy and data collection.

The bill requires tax collectors and their approved license plate agents to enter into an MOU with DHSMV regarding the use of FRVIS.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 319.32, F.S., relating to fees; service charges; disposition.

**Section 2:** Amends s. 320.03, F.S., relating to registration; duties of tax collectors; International Registration Plan.

**Section 3:** Amends s. 320.04, F.S., relating to registration service charge.

**Section 4:** Amends s. 328.72, F.S., relating to classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.

**Section 5:** Amends s. 328.73, F.S., relating to registration; duties of tax collectors.

**Section 6:** Provides an effective date of July 1, 2020.

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

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

1. Revenues:

The bill will likely have no impact on state government revenues.

2. Expenditures:

According to DHSMV, the systems, including FRVIS, will need to be programed to provide real-time access to the same data and functionality that is provided to all other third-parties. Depending on the number of use cases (or specific situations) identified and approved, the amount of programming to implement the change will likely increase as the number of use cases increase. One use case requires approximately 500 hours of programming, at a rate of \$85 per hour.<sup>21</sup> The number of use cases are not known at this time. Therefore, the negative fiscal impact associated with DHSMV programming efforts is indeterminate; however, DHSMV expects these costs can be absorbed within existing resources.

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

1. Revenues:

Tax collectors may see a positive indeterminate fiscal impact as a result of having real time access to data that could allow them to process additional transactions that they currently do not have the ability to process.

2. Expenditures:

The bill will likely have no impact on local government expenditures.

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

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<sup>21</sup> E-mail from Suzie Carey, Chief Financial Officer, DHSMV, RE: HB 571, (January 22, 2020). On file with the Transportation & Infrastructure Subcommittee.

Tax collectors may set different service charge fees collected by private tag agencies.

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 action requiring the expenditure 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:

The bill requires tax collectors to determine “additional service charges” to be collected by private license plate agents. However, the bill provides no criteria for these fees, minimum or maximum amounts, etc. In the absence of statutory guidelines for these charges, the terms in the bill could be interpreted as an invalid delegation of legislative authority in violation of art. II, s. 3 of the State Constitution.

B. RULE-MAKING AUTHORITY:

The bill does not provide a grant of rulemaking authority, nor does it require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 21, 2020, the Transportation & Infrastructure Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed language authorizing DHSMV to require MOUs between DHSMV and the tax collector’s approved agents or vendors when an agent or vendor requests real-time access to data or functionality related to motor vehicles, mobile homes, and vessels.

On February 20, 2020, the State Affairs Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Required tax collectors to determine additional service charges that will be collected by privately owned license plate agents for motor vehicle and vessel titles and registrations, and required such service charges to be fully itemized and disclosed to the customer;
- Required license plate agents to enter into a contract with tax collectors regarding the disclosure of additional service charges;
- Required tax collectors and their approved license plate agents to enter into a MOU with DHSMV regarding the use of FRVIS;
- Authorized other tax collection systems to include technology systems provided by vendors contracted with the tax collector for in-person and online vehicle and vessel registration transactions;
- Clarified that accessible data includes, but is not limited to, bulk data for vehicle and vessel registrations, and provided that such data and functionality may be used only for purposes of fulfilling the tax collector's statutory duties and may not be resold or used for any other purpose; and
- Required the tax collectors’ approved vendors to protect customer privacy and data collection.

This analysis is drafted to the committee substitute as approved by the State Affairs Committee.