

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: SPB 7062

INTRODUCER: Finance and Tax Committee

SUBJECT: Taxation

DATE: April 18, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Babin</u>	<u>Babin</u>	_____	FT Submitted as Comm. Bell/Fav

I. Summary:

SPB 7062:

- Permanently exempts the sale of the following products from sales and use tax:
 - Machinery and equipment used to produce renewable natural gas.
 - Baby and toddler products.
 - Diapers and incontinence products.
 - Oral hygiene products.
 - Firearm safety devices.
- Provides a 28-day “back-to-school” sales tax holiday over two separate time periods, from July 24, 2023, through August 06, 2023, and January 01, 2024, through January 14, 2024, for certain clothing, school supplies, learning aids and puzzles, and personal computers.
- Provides a 14-day “disaster preparedness” sales tax holiday from May 27, 2023, through June 09, 2023, for specified disaster preparedness items, supplies necessary for the evacuation of pets, and common household consumable items.
- Provides a 3-month “Freedom Summer” sales tax holiday from May 29, 2023, through September 04, 2023, for specified admissions, boating and water activity supplies, camping supplies, fishing supplies, general outdoor supplies, residential pool supplies, children’s toys, and children’s athletic equipment.
- Provides a 7-day “Tool Time” sales tax holiday from September 2, 2023, through September 8, 2023, for specified tools and safety equipment.
- Provides a 1-year sales tax exemption on the sale of:
 - Specified ENERGY STAR appliances.
 - Gas ranges and cooktops.
- Increases the Strong Families Tax Credit limit from \$10 million to \$20 million.
- Provides an additional \$150 million in tax credits for brownfield rehabilitation for use in Fiscal Years 2023-2024 through 2027-2028.
- Creates a corporate income tax credit for the installation of graywater systems on residential property.

- Creates a corporate income and insurance premium tax credit for the rehabilitation of historic real property in Florida.
- Distributes \$27.5 million for 2 fiscal years to the Florida Agricultural Promotion Campaign Trust Fund, from which it will be further distributed to the Florida Thoroughbred Breeders' Association and two thoroughbred racing tracks within Florida to be used to promote thoroughbred breeding and thoroughbred racing in Florida.
- Provides a credit against pari-mutuel taxes and fees for permit holders that conduct thoroughbred racing.
- Exempts certain portions of Small Business Administration loans from documentary stamp tax and intangible personal property tax.
- Exempts certain notes by alarm system contractors from documentary stamp tax.
- Permanently increases the sales tax dealer collection allowance from a maximum of \$30 per return to \$45 per return.
- Prohibits special assessments on agricultural lands.
- Requires several local taxes, when renewed or increased by referendum, to be placed on the ballot in a general election held within 48 months before the effective date of the renewed or increased tax, and prohibits them from being placed on the ballot more than once during that time period.
- Clarifies that the ad valorem exemption for disabled veterans may be transferred to other properties at the discretion of the disabled veteran or his or her surviving spouse.
- Expands the ad valorem refund for disabled veterans who purchase a new homestead in Florida after receiving the exemption on an existing homestead to no longer require the veteran to have been receiving the exemption on an existing homestead.
- Expands the homestead exemption for surviving spouses of first responders killed in the line of duty to include surviving spouses of federal law enforcement officers.
- Clarifies that parsonages, burial grounds, and tombs, when owned by a public house of worship, are used for religious purposes, and thus, are not subject to ad valorem tax.
- Amends the ad valorem exemption for educational property to include property under a 98-year lease by an educational institution and property leased by an educational institution and used by it for educational purposes if the property was owned by the educational institution and received the exemption for at least 10 consecutive years in the past.
- Amends the automatic property tax refund provision for residential property rendered uninhabitable to not apply when the damage was caused by an event resulting in a federal disaster area declaration or a state of emergency.
- Freezes local communications services tax rates in place on January 1, 2023, until January 1, 2026.
- Delays the imposition of the natural gas fuel tax from January 1, 2024, until January 1, 2026.
- Clarifies that when calculating the penalty for underpayment with regard to corporate income tax, a taxpayer's donation to a tax donation program is included as a payment of tax.

The bill reduces revenues in total by \$1,198.2 million, which is the sum of \$420.5 million (recurring), and \$777.7 million (pure nonrecurring in Fiscal Year 2023-2024 and reductions resulting from nonrecurring impacts in future years). **See Section V. Fiscal Impact Statement for additional information.**

Except as otherwise provided, the bill takes effect July 1, 2023.

II. Present Situation:

Overview of Florida Sales and Use Tax

Florida levies a 6 percent tax on the sale or rental of most items of tangible personal property,¹ admissions,² transient rentals,³ and a limited number of services, as well as a 5.5 percent tax on commercial leases.⁴ Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁵

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.⁶ A surtax applies to “all transactions ... subject to the state tax ... on sales, use, services, rentals, admissions, and other transactions”⁷ The discretionary sales surtax rates vary by county in a range of 0.5 to 1.5 percent.⁸

Overview of Florida Property Tax

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of a property as of January 1 of each year.⁹ The property appraiser annually determines the “just value”¹⁰ of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”¹¹ Property tax bills are mailed in November of each year based on the previous January 1 valuation.¹² Taxes are due by March 31 of the following year,¹³ but taxpayers receive a discount if they pay early.¹⁴

¹ Section 212.05(1)(a)1.a., F.S.

² Section 212.04(1)(b), F.S.

³ Section 212.03(1)(a), F.S.

⁴ Section 212.031, F.S.

⁵ Section 212.07(2), F.S.

⁶ Section 212.055, F.S.

⁷ Section 212.054(2)(a), F.S.

⁸ FLA. DEP’T OF REVENUE, *Discretionary Sales Surtax Information for Calendar Year 2023*, available at https://floridarevenue.com/Forms_library/current/dr15dss.pdf (last visited Apr. 15, 2023).

⁹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

¹⁰ Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See, e.g., Walter v. Schuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *S. Bell Tel. & Tel. Co. v. Dade Cnty.*, 275 So. 2d 4 (Fla. 1973).

¹¹ *See* ss. 192.001(2) and (16), F.S.

¹² Section 197.322, F.S.; *see also* FLA. DEP’T OF REVENUE, *Florida Property Tax Calendar*, available at <https://floridarevenue.com/property/Documents/taxcalendar.pdf> (last visited Apr. 15, 2023).

¹³ Section 197.162, F.S.

¹⁴ Section 197.162, F.S.; *see also* FLA. DEP’T OF REVENUE, *Tax Collector Calendar*, available at <https://floridarevenue.com/property/Documents/tccalendar.pdf> (last visited Apr. 15, 2023).

The Florida Constitution prohibits the state from levying ad valorem taxes¹⁵ and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.¹⁶

Overview of Florida Corporate Income Tax

Florida levies a 5.5 percent tax on certain income of corporations and financial institutions doing business in Florida.¹⁷ Florida utilizes the taxable income determined for federal income tax purposes as a starting point to determine the total amount of Florida corporate income tax due.¹⁸ This means that a corporation paying taxes in Florida generally receives the same benefits from deductions allowed when determining taxable income for federal tax purposes as it does when determining taxable income for state taxation purposes.

Florida provides various tax benefits for certain corporate activities. These tax benefits take the form of subtractions, which reduce the amount of income that is ultimately subject to tax, exemptions, which prohibit taxation on certain levels of income, and tax credits, which are a dollar-for-dollar reduction of a corporation's tax liability.

Overview of Florida Insurance Premium Tax

Florida imposes a 1.75 percent tax on most Florida insurance premiums, a 1 percent tax on annuity premiums; and a 1.6 percent tax on self-insurers.¹⁹ In addition, some insurers pay a retaliatory tax to the extent the insurer's state of domicile would impose a greater tax burden than Florida imposes.

The bill contains several unrelated issues. Thus, the present situation for each issue included in the bill is described below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Section 1 – Special Assessments on Nonresidential Farm Buildings

Present situation

Agricultural lands are those used primarily for bona fide agricultural purposes such as horticulture, viticulture, forestry, and farming.²⁰ Property appraisers are required to annually classify all land as either agricultural or nonagricultural.²¹ Lands classified as agricultural are assessed based on current use rather than its highest and best use, often resulting in lower assessed values.²²

¹⁵ FLA. CONST. art. VII, s. 1(a).

¹⁶ See FLA. CONST. art. VII, s. 4.

¹⁷ Section 220.11(2), F.S.

¹⁸ Section 220.12, F.S.

¹⁹ Section 624.509, F.S., and s. 624.4621, F.S.

²⁰ Section 193.461, F.S.

²¹ Section 193.461(1), F.S.

²² FLA. CONST. art. VII, s. 4(a).

Only the area of the land used for agricultural purposes benefits from the agricultural classification.²³ Maintaining a dwelling on part of the lands used for agricultural purposes does not in itself preclude an agricultural classification.²⁴ When agricultural property contains a residence under the same ownership, the portion of the property consisting of the residence and curtilage must be assessed separately.²⁵

Counties are authorized to levy special assessments;²⁶ however, they are prohibited from levying special assessments for the provision of fire protection services on a nonresidential farm building with a just value equal to or less than \$10,000.²⁷

Proposed change

The bill amends s. 125.0104, F.S., to prohibit special assessments on lands classified as agricultural.

Sections 2-7 – Local Tax Referenda

Present situation

Counties and municipalities have authority to levy a variety of optional taxes conditioned upon approval of a majority of electors voting in a referendum.

Presently, the referenda approving the local taxes amended in the bill are held at general elections.²⁸ A general election is an election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law.²⁹ Current law is silent on the timing of referenda to reauthorize existing taxes, and permits referenda to occur at *any* general election. The taxes addressed in the bill are described below.

Tourist Development Tax – Counties may levy five separate taxes – known as “tourist development taxes” or “TDTs” – on transient rental transactions.³⁰ The maximum tax rate varies from a minimum of 3 percent to a maximum of 6 percent.³¹ The “base” TDT may be levied at the rate of 1 or 2 percent.³² The levy of the base 1 or 2 percent TDT must be approved by a

²³ Section 193.461(3)(b), F.S.

²⁴ Section 193.461(3)(c), F.S.

²⁵ Section 193.461(3)(d), F.S.

²⁶ Section 125.01(1)(r), F.S.

²⁷ Section 125.01(1)(r), F.S.

²⁸ Sections 125.0104(6)(a), 125.0108(5), 125.901(1), 200.091, 212.055(10), 336.021(4)(a)2., and 336.025(1)(b), F.S.

²⁹ Section 97.021(17), F.S.

³⁰ Section 125.0104(3)(a)1., F.S., considers “transient rental” to be the rental or lease of any accommodation for a term of 6 months or less.

³¹ Section 125.0104, F.S.

³² Section 125.0104(3)(c), F.S. Sixty-two counties levy the original tourist development tax, all at a rate of 2 percent. OFF. OF ECON. & DEMOGRAPHIC RESCH., 2022 *Local Financial Information Handbook* at 247-48, available at <http://edr.state.fl.us/Content/local-government/reports/lgh22.pdf> (last visited Apr. 13, 2023).

countywide referendum,³³ and additional TDT levies must be authorized by a vote of the county's governing authority or by voter approval of a countywide referendum.³⁴

Tourist Impact Tax – Counties containing a designated area of critical state concern³⁵ are authorized to create land authorities by ordinance³⁶ to “equitably deal with the challenges of implementing comprehensive land use plans developed pursuant to the area of critical state concern program, which challenges are often complicated by the environmental sensitivity of such areas.”³⁷ Any county creating a land authority may levy a tourist impact tax.³⁸ The tax must be approved by referendum.³⁹

Children's Services – In 1986, the Legislature authorized Florida counties to create children's services councils as countywide special districts to fund children's services throughout the county.⁴⁰ The county governing body must obtain approval, by a majority vote of those electors voting on the question, to levy ad valorem taxes to fund children's services. The levy may not exceed 0.5 mills.⁴¹

Discretionary Sales Surtax – Counties are authorized to levy a discretionary sales surtax on transactions subject to state sales tax.⁴² A referendum to adopt or amend a discretionary sales surtax must be held at a general election.⁴³ Current law does not specify when a referendum to reauthorize an existing sales surtax must occur.

Ninth-Cent Fuel Tax and Local Option Fuel Tax – Counties may levy a ninth-cent fuel tax (1 cent on every net gallon of motor and diesel fuel sold within a county) if approved by extraordinary vote of its governing board or by voter referendum.⁴⁴

Counties also may levy other local option fuel taxes which include a tax of 1 to 6 cents on every net gallon of motor and diesel fuel sold within a county, and a tax of 1 to 5 cents on every net gallon of motor fuel (excluding diesel) sold within a county.⁴⁵ The latter tax on motor fuel may

³³ Section 125.0104(6), F.S.

³⁴ Section 125.0104(3)(d), F.S.

³⁵ The Areas of Critical State Concern Program, which was created by the Florida Environmental Land and Water Management Act of 1972, is intended to “protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources.” FLA. DEP'T OF ECON. OPPORTUNITY, *Areas of Critical State Concern Program*, <https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern> (last visited Apr. 13, 2023).

³⁶ Section 380.0663(1), F.S.

³⁷ Section 380.0661(1), F.S.

³⁸ Section 125.0108(1)(a), F.S.

³⁹ Section 125.0108(5), F.S.

⁴⁰ Chapter 86-197, Laws of Fla.; s. 125.901(1), F.S. Ten counties currently have children's services councils organized as independent special districts. See FLA. DEP'T OF ECON. OPPORTUNITY, *Official List of Special Districts Online*, available at <https://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program/official-list-of-special-districts>, Special Purpose Totals and Statutory Authority (PDF) (last visited Apr. 13, 2023).

⁴¹ Section 125.901(3)(b), F.S.

⁴² Section 212.054, F.S.

⁴³ Section 212.055(10), F.S.

⁴⁴ Section 336.021(1)(a), F.S.

⁴⁵ Section 336.025, F.S.

be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.⁴⁶

All impositions of the ninth-cent fuel tax or the local option fuel tax must be levied before October 1 of each year to be effective January 1 of the following year.⁴⁷

Proposed change

In general, the bill requires that the reenactment or increase of a currently levied tax must appear on the ballot in a general election within the 48 months preceding the effective date of the reenacted or increased tax, and the question may only appear on the ballot once during that 48-month period. This exact requirement is amended into ss. 125.0104, F.S., (the Tourist Development Tax), 125.0108, F.S., (the Tourist Impact Tax), 125.901, F.S., (Children’s Services Tax), 212.055, F.S., (Discretionary Sales Surtaxes), 336.021, F.S., (Ninth-cent Fuel tax), and 336.025, F.S., (Local Option Fuel Tax).

Sections 8 and 9 – Totally and Permanently Disabled Veteran and Surviving Spouse Homestead Property Tax Exemption – Transfers to New Property

Present situation

Florida provides a complete property tax exemption for the homestead property of:

- A veteran who was honorably-discharged with a total and permanent service-connected disability.
- A surviving spouse of a veteran who died from service-connected causes while on active duty.
- A surviving spouse of first responder who died in the line of duty.⁴⁸

An exemption granted to a totally and permanently disabled veteran or a surviving spouse of veteran or first responder who died in the line of duty may be transferred to new property.⁴⁹ If a veteran who has been granted the exemption passes away, the exemption carries over to his or her spouse and continues so long as the spouse holds title to the homestead property, permanently resides thereon, and does not remarry.⁵⁰ In these “carry over” situations, the amount exempted may be transferred to a new homestead if the first property is sold, the newly acquired property is established as a homestead, and the surviving spouse does not remarry.⁵¹

Situations have been reported involving property appraisers who prohibited a taxpayer from transferring their exemptions to new property.

Proposed change

The bill amends s. 196.081, F.S., to clarify throughout that veterans and surviving spouses receiving a homestead exemption are entitled to transfer the exemption to a new property.

⁴⁶ Section 336.025(1)(b), F.S.

⁴⁷ Section 336.025(1)(a)-(b), F.S.

⁴⁸ See s. 196.081, F.S.

⁴⁹ See s. 196.081, F.S.

⁵⁰ Section 196.081(3), (4)(b), and (6)(b), F.S.

⁵¹ Section 196.081(3), (4)(b), and (6)(b), F.S.

The bill provides that these amendments are remedial and clarifying and do not provide a basis for an assessment or refund of taxes paid.

Sections 10 and 11 – Homestead Property Tax Exemption for Totally and Permanently Disabled Veterans and Surviving Spouses – Refunds and Federal Law Enforcement

Present situation

Newly Purchased Homesteads – Property is valued and its exemptions are determined as of January 1 each year.⁵² Thus, in the year of purchase, a purchaser of realty typically receives only the exemptions that the seller was entitled to on January 1. However, for veterans who are currently receiving the homestead exemption for a totally and permanently disabled veteran, the veteran can receive a refund of property taxes that he or she paid on the newly purchased homestead in the year of purchase.⁵³ If the veteran had not been receiving the exemption on a prior homestead as of January 1 of the purchase year, the veteran is not entitled to this refund treatment.

Federal Law Enforcement Officers – For purposes of the exemption that applies to the homestead property of a surviving spouse of a first responder who died in the line of duty, “first responder” does not include federal law enforcement officers.⁵⁴

Permanent Residency Requirement – The Florida Constitution grants the Legislature broad authority with regard to all taxes other than property tax.⁵⁵ With regard to property tax, the Legislature is limited to exercising the express authority included within the Florida Constitution.

With regard to the exemption for surviving spouses of veterans who died from service-connected causes while on active duty, the statute makes the exemption contingent on the veteran being a permanent resident of Florida on January 1 of the year in which he or she died.⁵⁶ This residency requirement is not included in the constitutional authority to grant this exemption.⁵⁷

In 2020, the Second District Court of Appeal ruled that the permanent residency requirement violated the Florida Constitution.⁵⁸

Proposed change

Newly Purchased Homesteads. – The bill amends s. 196.081, F.S., to allow totally and permanently disabled veterans or their surviving spouses who acquire property between January 1 and November 1 to receive a prorated refund of taxes paid in the year of acquisition if he or she

⁵² Section 192.042, F.S.

⁵³ Section 196.081(1)(b)1., F.S.

⁵⁴ “First responder” is defined as a law enforcement or correctional officer as defined in s. 943.10, F.S.; a firefighter as defined in s. 633.102, F.S.; or an emergency medical technician or paramedic as defined in s. 401.23, F.S.

⁵⁵ FLA. CONST. art VII, s. 1(a).

⁵⁶ Section 196.081(4), F.S.

⁵⁷ See FLA. CONST. art. VII, s. (6)(f)1.

⁵⁸ See *Dep’t of Revenue v. Bell*, 290 So. 3d 1060 (Fla. 2nd DCA 2020).

applies for and receives an ad valorem tax exemption for totally and permanently disabled veterans in the subsequent tax year. The property owner must have qualified as having had a service-connected total and permanent disability as of January 1 of the year of acquisition but will no longer be required to have actually received the exemption on a prior homestead.

Federal Law Enforcement Officers. – The bill amends s. 196.081, F.S., to revise the definition of “first responder” to include federal law enforcement officers as defined in s. 901.1505(1), F.S.⁵⁹ This revision expands both the ad valorem tax exemption for surviving spouses of first responders who died in the line of duty and the ad valorem tax exemption for first responders rendered totally and permanently disabled in the line of duty to include federal law enforcement officers. The bill does not otherwise substantively amend the requirements to receive those tax exemptions.

Permanent Residency Requirement – The bill amends s. 196.081, F.S., to remove the permanent residency requirement ruled unconstitutional by the Second District Court of Appeals.

Sections 12 and 13 – Ad Valorem Exemption for Religious Property

Present situation

Property used predominantly for educational, literary, scientific, religious, or charitable purposes is exempt from property tax.⁶⁰ In determining whether the property is predominantly used for an exempt purpose, 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 charitable or other qualifying entities.⁶¹ Only the portions of the property used predominantly for an exempt purpose may be exempt from ad valorem taxation.

Proposed change

The bill amends s. 196.196, F.S., to clarify that property owned by a house of public worship and used as a parsonage, burial ground, or tomb is used for a religious purpose. The bill provides that the change is remedial and clarifying and does not provide a basis for a tax assessment or a refund of tax.

⁵⁹ Section 901.1505(1), F.S, provides that the term “federal law enforcement officer” means “a person who is employed by the Federal Government as a full-time law enforcement officer as defined by the applicable provisions of the United States Code, who is empowered to effect an arrest for violations of the United States Code, who is authorized to carry firearms in the performance of her or his duties, and who has received law enforcement training equivalent to that prescribed in s. 943.13.”

⁶⁰ Sections 196.196(2) and 196.198, F.S. *See also* s. 196.1978, F.S. (providing that certain property used to provide affordable housing is property used for a charitable purpose).

⁶¹ Section 196.196(1)(a)-(b), F.S.

Section 14 – Ad Valorem Exemption for Educational Property

Present situation

Property used for educational purposes is exempt from property tax in Florida.⁶² In order to be exempt, the property generally has to be both owned by an educational institution and used for educational purposes by the educational institution.⁶³

The exemption also covers several additional educational situations:

- Certain workshops that provide rehabilitation and retraining of disabled persons;
- Certain portions of property used by college fraternities and sororities;
- The use of property by certain public fairs and expositions;
- Situations where the property used for educational purposes and the educational institution are owned by the same persons; and
- Property owned by a non-profit entity but used for educational purposes by a 501(c)(3) educational institution that uses the property under a ground lease or other contractual arrangement to provide education for students prekindergarten through grade 8.⁶⁴

Proposed change

The bill amends s. 196.198, F.S., to exempt property used for educational purposes when:

- The educational property is leased by an educational institution under a 98-year lease for a nominal amount.
- The property is leased and used by an educational institution for educational purposes, the educational institution received the exemption for any 10 consecutive years, and the educational institution is responsible for the taxes, ongoing maintenance, and expenses.

Sections 15 and 16 – Ad Valorem Tax Refunds for Damaged Property

Present situation

Florida provides refunds of property taxes paid with respect to residences rendered uninhabitable for at least 30 days by a catastrophic event.⁶⁵ Affected property owners must pay the tax bill when it comes due, but then may apply for a refund of proportionate share of taxes paid with respect to the time that their residence was uninhabitable.⁶⁶

The current definition of “catastrophic event” is broad enough to encompass both a localized event such as a fire or flood that renders a single structure uninhabitable, as well as a large scale natural disaster such as a hurricane that damages multiple properties and may significantly affect the budgets of the state and local governments.

The current provisions were passed in 2022 and became effective January 1, 2023.⁶⁷

⁶² Section 196.198, F.S.

⁶³ Section 196.198, F.S.

⁶⁴ Section 196.198, F.S.

⁶⁵ Section 197.319, F.S.

⁶⁶ See generally s. 197.319, F.S.

⁶⁷ Section 14, ch. 2022-97, Laws of Fla.

Proposed change

The bill amends s. 197.319, F.S., primarily making clarifying changes.

The bill makes one substantive change to the statute. The bill redefines “catastrophic event” to exclude an event that results in a federal disaster or state of emergency declaration under s. 252.36, F.S., which relates to the emergency management powers of the Governor.

These changes first apply to the 2024 property tax roll.

Sections 17-19 – Small Business Administration Loan Exemption – Documentary Stamp Tax and Intangible Tax***Present situation***

Florida levies a documentary stamp tax on certain documents executed, delivered, or recorded in Florida. The most common examples are documents that transfer an interest in Florida real property, such as deeds; and mortgages and written obligations to pay money, such as promissory notes.⁶⁸

The tax on deeds and other documents related to real property is 70 cents per \$100,⁶⁹ and the tax on written obligations to pay money is 35 cents per \$100.⁷⁰ The tax levied on written obligations to pay money may not exceed \$2,450.⁷¹

Chapter 199, F.S., imposes a non-recurring, one-time intangible personal property tax on obligations for the payment of money secured by liens on Florida real property.⁷² The rate for the intangible tax is 2 mills for each dollar of the just valuation of all notes, bonds, and other obligations for payment of money which are secured by mortgage, deed, or other lien.⁷³

504 Loan Program – The United States Small Business Administration (SBA) provides long-term, fixed-rate financing through their 504 Loan Program for small, for-profit companies looking to invest in major fixed assets but who need assistance with funding. The loan program offers loans of up to \$5.5 million⁷⁴ that can be used for buildings, land, or machinery and equipment necessary to promote business growth or spur job creation.⁷⁵

⁶⁸ FLA. DEP’T OF REVENUE, *Florida Documentary Stamp Tax*, available at https://floridarevenue.com/taxes/taxesfees/pages/doc_stamp.aspx (last visited Apr. 14, 2023).

⁶⁹ Section 201.02(1)(a), F.S.

⁷⁰ Sections 201.07 and 201.08(1)(b), F.S.

⁷¹ Section 201.08(1)(a), F.S.

⁷² Section 199.133(1), F.S.

⁷³ Section 199.133(1), F.S.

⁷⁴ 15 U.S.C. s. 696(2).

⁷⁵ U.S. SMALL BUS. ADMIN., *504 Loans*, <https://www.sba.gov/funding-programs/loans/504-loans> (last visited April 14, 2023).

The program is normally structured requiring 10 percent of the capital from the owner,⁷⁶ 50 percent from a traditional loan,⁷⁷ and 40 percent from the 504 Loan.⁷⁸ The program uses Certified Development Companies, which are nonprofit corporations that help organize the 504 Loan process and serve as intermediaries for companies, banks, and the SBA.⁷⁹

As part of the 504 loan process, the 40 percent loan is initially structured as an “interim” or “bridge” loan through a separate bank, which is either the same bank issuing the 50 percent traditional loan or a different bank. In either case, both the 50 percent traditional loan and the 40 percent SBA loan are subject to documentary stamp tax and non-recurring intangibles tax, based on the value of the loans.

When the SBA finalizes the transaction, the treatment of the 40 percent interim loan differs depending on whether interim loan is held by the same bank as the traditional 50 percent loan or another bank. When the 40 percent interim loan is held by the same bank as the 50 percent traditional loan, the SBA will merely assume the 40 percent traditional loan. Under this treatment, documentary stamp tax and intangibles tax is only due on any increased amount of fees that is added to the transaction by the SBA. However, when the 40 percent traditional loan is by a different bank than the 50 percent traditional loan, the SBA requires a new loan to be executed and that new loan will add any additional fees added by the SBA. When the new loan is executed, the entire amount – both the portion that was the 40 percent interim loan that was already subjected to tax, and the new fee portion – is subject to tax.

Alarm System Contractors -- Some alarm system contractors have promissory notes executed when installing a new alarm system into real property. Such promissory notes are subject to documentary stamp tax.

Proposed change

The bill amends ss. 199.145 and 201.08, F.S., to exempt from documentary stamp tax and intangible personal property tax that portion of an interim loan upon which taxes have already been paid when the federal government takes over the loan.

The bill amends s. 201.08, F.S., to exempt from documentary stamp tax non-interest-bearing written obligations to pay money, or assignments of salaries, wages, or other compensation made, executed, delivered, sold, transferred, or assigned in the state, and for each renewal of the same, of \$3,500 or less, when given by a customer to an alarm system contractor, as defined in s. 489.505, in connection with the sale of an alarm system, as defined in s. 489.505.

⁷⁶ 15 U.S.C. s. 696 (3)(C)(iv).

⁷⁷ 15 U.S.C. s. 696(3)(B)(ii).

⁷⁸ U.S. SMALL BUS. ADMIN., *504 Loan Program*, available at <https://www.sba.gov/brand/assets/sba/sba-lenders/504-Loan-Fact-Sheet-Borrower-Version.pdf> (last visited April 14, 2023).

⁷⁹ U.S. SMALL BUS. ADMIN., *504 Loan Program*, available at <https://www.sba.gov/brand/assets/sba/sba-lenders/504-Loan-Fact-Sheet-Borrower-Version.pdf> (last visited April 14, 2023).

Section 20 – Local Communications Services Tax Rate Freeze

Present situation

Florida imposes communications services tax on the sale of communications services in Florida.⁸⁰ The tax applies to communications services such as telephone service, cable television service, and direct-to-home satellite service. The tax is comprised of both a state tax⁸¹ and a local tax⁸². The state tax rate is generally 4.92 percent,⁸³ except for direct-to-home satellite service, which has a unique tax structure.

With regard to the local communications services tax:

- Charter counties and municipalities may levy a rate of up to 5.1 percent for municipalities and charter counties that have not chosen to levy permit fees, and at a rate of up to 4.98 percent for municipalities and charter counties that have chosen to levy permit fees; and
- Noncharter counties may levy a rate of up to 1.6 percent.⁸⁴

Under s. 202.19(5), F.S., any discretionary sales surtax levied by a county or school board under s. 212.055, F.S., is imposed as a local communications services tax. This surtax is added to the adopted local rate at the respective conversion rate, as determined in accordance with methodology and chart in s. 202.20(3), F.S. The total local communications services tax rate is the total adopted rate plus the local option tax (at the converted rate), if applicable. The total local rate varies by jurisdiction.

Proposed change

The bill revises s. 202.19, F.S., to prohibit any local communications services tax rate in effect as of January 1, 2023, from being increased before January 1, 2026.

The bill also provides that any increases to discretionary sales tax, levied pursuant to s. 212.055, F.S., may not be added to the local communications services tax under s. 202.19, F.S., before January 1, 2026.

Sections 21-23 – Natural Gas Fuel Tax Delay

Present situation

In 2013, the Legislature established a fuel tax for natural gas when sold as a fuel for a motor vehicle. The decal fee imposed on “alternative fuel” vehicles was simultaneously repealed.⁸⁵ The bill repealed related provisions, including s. 206.877, F.S. (motor vehicles fueled by liquefied petroleum gas or compressed natural gas), and s. 206.89, F.S. (licensure of retailers of alternative fuel); and it amended and relocated various provisions to the new part V of the chapter.

⁸⁰ Section 202.12, F.S.

⁸¹ Section 202.12, F.S.

⁸² Section 202.19, F.S.

⁸³ Section 202.12(1)(a) and (b), F.S.

⁸⁴ Section 202.19, F.S.

⁸⁵ Chapter 2013-198, Laws of Fla., codified in Part V of ch. 206, F.S.

The bill delayed the imposition of the newly established tax until December 31, 2018, and exempted from the sales and use tax natural gas and natural gas fuel when placed into the fuel system of a motor vehicle.⁸⁶ Thereafter, a person operating as a natural gas fuel retailer was required to pay a tax on all natural gas fuel purchases⁸⁷ and report monthly to the Department of Revenue.⁸⁸

Beginning January 1, 2019, the following taxes were to be imposed on natural gas fuel:

- An excise tax of 4 cents upon each motor fuel equivalent gallon of natural gas fuel.
- An additional tax of 1 cent upon each motor fuel equivalent gallon⁸⁹ of natural gas fuel, which is designated as the “ninth-cent fuel tax.”
- An additional tax of 1 cent on each motor fuel equivalent gallon of natural gas fuel by each county, which is designated as the “local option fuel tax.”
- An additional tax on each motor fuel equivalent gallon of natural gas fuel, which is designated as the “State Comprehensive Enhanced Transportation System (SCETS) Tax,” at a rate determined by statute.⁹⁰
- An additional tax on each motor fuel equivalent gallon of natural gas fuel “for the privilege of selling natural gas fuel” at a rate determined by statute.⁹¹

In 2018, the Legislature:

- Delayed until January 1, 2024, imposition of the natural gas fuel taxes described above, as well as a natural gas fuel retailer’s obligation to report monthly to the Department of Revenue.
- Made a correction to the formulas used by the Department of Revenue to determine the annual tax rates for SCETS and the additional fuel tax, which was necessary to properly perform the calculations.
- Extended the expiration date of the \$200 penalty against a person acting as a natural gas retailer without a license from December 31, 2018, to December 31, 2023.
- Extended the effective date of the 25 percent penalty to January 1, 2019, to January 1, 2024.⁹²

⁸⁶ Section 212.08(4)(a)2., F.S. (2022).

⁸⁷ Section 206.9952(8), F.S. (2013).

⁸⁸ The method for determining the tax rate imposed was originally created in s. 206.996(1), F.S., with an effective date of February 2019.

⁸⁹ “Motor fuel equivalent gallon” is defined in s. 206.9951(1), F.S., to mean the volume of natural gas fuel it takes to equal the energy content of one gallon of motor fuel. Section 206.9955, F.S., currently defines the motor fuel equivalent gallon for compressed natural gas, liquefied natural gas, and liquefied petroleum gas.

⁹⁰ Each calendar year, the department shall determine the tax rate applicable to the sale of natural gas fuel for the following 12-month period beginning January 1, rounded to the nearest tenth of a cent, by adjusting the initially established tax rate of 5.8 cents per gallon by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30. Section 206.9955(2)(d), F.S. (2013).

⁹¹ Each calendar year, the department shall determine the tax rate applicable to the sale of natural gas fuel, rounded to the nearest tenth of a cent, for the following 12-month period beginning January 1. The tax rate is calculated by adjusting the initially established tax rate of 9.2 cents per gallon by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30. Section 206.9955(2)(e)1., F.S. (2013).

⁹² Chapter 2018-118, Laws of Fla.

Proposed change

The bill delays from January 1, 2024, to January 1, 2026, the imposition of natural gas fuel taxes, calculations required to be made by the Department of Revenue to set the annual tax rate for SCETS and the additional tax, and a retailer's obligation to report monthly. Monthly reporting must begin February 2026, rather than February 2024.

The bill extends the current expiration date from December 31, 2023, to December 31, 2025, for the penalty imposed on a person who acts as a natural gas retailer but does not hold proper licensure. The bill also makes the 25 percent penalty against a retailer who acts without a retailer license effective January 1, 2026, rather than January 1, 2024.

Section 24 – Permanent Sales Tax Exemptions***Renewable Natural Gas Machinery and Equipment******Present situation***

Renewable natural gas is essentially made from biogas (the gaseous product of the decomposition of organic matter) that has been processed to purity standards and can be used as transportation fuel or liquefied natural gas. However, to fuel vehicles, the biogas must be processed to a higher purity standard resulting in the renewable gas having a higher content of methane than raw biogas, which makes it comparable to conventional natural gas. This makes the renewable natural gas suitable in applications that require pipeline-quality gas such as vehicles.⁹³

Three main sources of biogas are landfills, livestock operations, and wastewater treatment sites. In landfills, the digestion process takes place in the ground rather than in an anaerobic digester, which is a series of processes in which microorganisms break down biodegradable material in the absence of oxygen.⁹⁴ As of 2021, there were 548 operational landfill gas projects in the country. At livestock operations, animal manure is collected and run through an anaerobic digester to stabilize and optimize methane production. The result is biogas that can be processed into renewable natural gas and used to fuel gas vehicles or produce electricity. As of 2022, there are 331 livestock farms utilizing anaerobic digester systems in the country, including three in Florida.⁹⁵ At wastewater treatment plants, biogas is produced by digesting the solids removed in the wastewater treatment process.

Current law exempts from the sales and use tax purchases of machinery and equipment used at a fixed location for specific purposes. For example, machinery and equipment used in the production of electrical or steam energy, to increase the output of new or expanding businesses performing spaceport activities, and for machinery and equipment used under federal procurement contracts.⁹⁶ Most recently, machinery and equipment necessary to produce

⁹³ U.S. DEP'T OF ENERGY, *Alternative Fuels Data Center, Renewable Natural Gas Production*, https://afdc.energy.gov/fuels/natural_gas_renewable.html. (last visited Apr. 15, 2023).

⁹⁴ U.S. DEP'T OF ENERGY, *Alternative Fuels Data Center, Renewable Natural Gas Production*, https://afdc.energy.gov/fuels/natural_gas_renewable.html. (last visited Apr. 15, 2023).

⁹⁵ U.S. ENV'T PROT. AGENCY, *Livestock Anaerobic Digester Database*, <https://www.epa.gov/agstar/livestock-anaerobic-digester-database> (last visited Apr. 15, 2023).

⁹⁶ See s. 212.08(5), F.S.

electrical or steam energy resulting from the burning of hydrogen or green hydrogen was exempted, as well as machinery and equipment necessary to produce green hydrogen.⁹⁷

Proposed change

The bill amends s. 212.08, F.S., to exempt from the sales and use tax the sale of machinery and equipment used at a fixed location for the production, storage, transportation, compression, or blending of renewable natural gas.

The bill defines “renewable natural gas” as an anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater, which may be used as transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline. The bill specifies that any reference to natural gas in ch. 212, F.S., includes renewable natural gas.

The bill provides that purchasers of machinery and equipment qualifying for this exemption must furnish the vendor with an affidavit stating that the item or items to be exempted are for the production, storage, transportation, compression, or blending of renewable natural gas. Purchasers with self-accrual authority⁹⁸ are not required to provide an affidavit; however, the purchaser must maintain all documentation necessary to prove the exempt status of purchases.

A person furnishing a false affidavit to the vendor in order to evade payment of the sales tax is liable for payment of the tax plus a mandatory penalty of 200 percent of the tax. A violation of this section is a third degree felony.⁹⁹

Baby and Toddler Products

Present situation

The sale of baby and toddler products is subject to Florida sales and use tax.

Proposed change

The bill amends s. 212.08, F.S., to exempt from sales and use tax the sale of:

- Baby cribs, including baby playpens and baby play yards.
- Baby strollers.
- Baby safety gates.

⁹⁷ Section 212.08(7)(ppp), F.S.

⁹⁸ Section 212.183, F.S. The Department of Revenue is authorized to provide by rule for self-accrual of the sales tax under one or more of the following seven circumstances: where authorized by law for holders of direct pay permits; where tangible personal property is subject to tax on a prorated basis, and the proration factor is based upon characteristics of the purchaser; where the taxable status of types of tangible personal property will be known only upon use; for commercial renters where the purchaser rents from a number of independent property owners who, apart from rentals to the purchaser in question, would otherwise not be obligated to register as dealers; where the purchaser makes purchases in excess of \$10 million per year of tangible personal property in any county; when the purchaser makes purchases of promotional materials defined in s. 212.06(11), F.S., and at the time of purchase, the purchaser does not know whether the materials will be exported outside the state; and for commercial rentals where the purchaser, who is required to remit sales tax electronically pursuant to s. 213.755, F.S., rents from a number of independent property owners.

⁹⁹ Section 212.085, F.S. A third degree felony is generally punishable by not more than five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

- Baby monitors.
- Child safety cabinet locks and latches and electrical socket covers.
- Bicycle child carrier seats and trailers designed for carrying young children, including any adaptors and accessories for these seats and trailers.
- Baby exercisers, jumpers, bouncer seats and swings.
- Breast pumps, bottle sterilizers, baby bottles and nipples, pacifiers, and teething rings.
- Baby wipes.
- Changing tables and changing pads.
- Children's diapers, including single-use diapers, reusable diapers, and reusable diaper inserts.
- Baby and toddler clothing, apparel, and shoes, primarily intended for and marketed for children age 5 or younger. Baby and toddler clothing size 5T and smaller and baby and toddler shoes size 13T and smaller are presumed to be primarily intended for and marketed for children age 5 or younger.

Diapers and Incontinence Products

Present situation

Diapers and incontinence products are generally subject to sales and use tax in Florida. However, diapers for children and adults, diaper bags, and diaper inserts have been temporarily exempted from sales tax during certain sales tax holidays.¹⁰⁰ Additionally, children's diapers including single-use diapers, reusable diapers, and reusable diaper inserts are currently exempt from sales tax until June 30, 2023.¹⁰¹

Some medical products are among the items exempt from sales and use tax.¹⁰² Such products include ostomy pouches, catheters, and mastectomy pads.¹⁰³ Common household remedies used in the cure, mitigation, treatment, or prevention of illness or disease, such as alcohol wipes, bandages, and gauze, are also exempt from sales and use tax.¹⁰⁴ Certain products relating to infants are exempt, including baby food, formulas, and teething lotion.¹⁰⁵

Of the 45 states that impose a sales tax,¹⁰⁶ California, Colorado, Connecticut, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, Rhode

¹⁰⁰ See, e.g., FLA. DEP'T OF REVENUE, *2022 Back-to-School Sales Tax Holiday Tax Information Publication*, 4, available at https://floridarevenue.com/taxes/tips/Documents/TIP_22A01-08.pdf (last visited Apr. 15, 2023).

¹⁰¹ Chapter 2022-97, s. 50, Laws of Fla.

¹⁰² Section 212.08(2)(a), F.S.

¹⁰³ The Department of Business and Professional Regulation is responsible for prescribing and approving a list of common household remedies, which is then certified by the Department of Revenue. See FLA. DEP'T OF REVENUE, *Nontaxable Medical Items and Grocery List*, 2, available at https://floridarevenue.com/Forms_library/current/dr46nt.pdf (last visited Mar. 8, 2023).

¹⁰⁴ *Id.* at 1.

¹⁰⁵ *Id.* at 3.

¹⁰⁶ Alaska, Delaware, Montana, New Hampshire, and Oregon do not levy a state sales tax. See TAX FOUND., *State and Local Sales Tax Rates, 2020*, available at <https://files.taxfoundation.org/20200115132659/State-and-Local-Sales-Tax-Rates-2020.pdf> (last visited Mar. 8, 2023).

Island, Vermont, Virginia, and the District of Columbia do not subject the sale of diapers to state sales tax.¹⁰⁷ North Dakota exempts diapers used for incontinence, but not baby diapers.¹⁰⁸

Proposed change

The bill amends s. 212.08, F.S., to exempt from sales and use tax the sale for human use of diapers, incontinence undergarments, incontinence pads, and incontinence liners.

Oral Hygiene Products

Present situation

The sale of oral hygiene products is subject to sales tax in Florida.

Proposed change

The bill amends s. 212.08, F.S., to exempt from sales tax the sale of oral hygiene products. “Oral hygiene products” is defined to mean electric and manual toothbrushes, toothpaste, dental floss, dental picks, oral irrigators, and mouthwash.

Firearm Safety Devices

Present situation

The sale of firearm safety devices is subject to sales tax in Florida.

Proposed change

The bill amends s. 212.08, F.S., to exempt from sales tax the sale of a firearm safe, firearm lockbox, firearm case, or other device that is designed to be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means. Also exempt is a firearm trigger lock or firearm cable lock that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device and that is designed to be unlocked only by means of a key, a combination, or other similar means.

Section 25 – Sales Tax Dealer Collection Allowance Permanent Increase

Present situation

Businesses that sell tangible personal property and services that are subject to the Florida sales tax are required to collect the sales tax on the sale and to remit their collections.¹⁰⁹ These businesses are generally referred to as dealers and are required to file returns,¹¹⁰ and maintain books and records to evidence past sales,¹¹¹ which records are subject to audit by the Department of Revenue.¹¹²

¹⁰⁷ NAT’L DIAPER BANK NETWORK, *Diaper Tax*, <https://nationaldiaperbanknetwork.org/diaper-tax/> (last visited Apr. 15, 2023).

¹⁰⁸ *Id.*

¹⁰⁹ See generally s. 212.06, F.S.

¹¹⁰ See s. 212.11, F.S.

¹¹¹ See s. 212.13, F.S.

¹¹² See s. 212.13, F.S.

For maintaining records and properly reporting and remitting sales tax, dealers are authorized to retain from collected sales tax an amount equal to 2.5 percent of collections on the first \$1,200 dollars of collected sales tax, which equates to a maximum of \$30 per return.

Proposed change

The bill amends s. 212.12, F.S., to simplify the calculation of collection allowance by removing reference to a percentage of collected taxes and replaces that calculation with a collection allowance equal to a maximum of \$45 per return.

Sections 26-30 – Promotion of Florida Thoroughbred Breeding and Racing

Present situation

Florida has a significant presence of thoroughbred horse operations. Florida produces 9 percent of the annual thoroughbred foal crop in North America.¹¹³ At certain times of the year, Florida has in excess of 15,000 thoroughbreds-in-training located in training centers within Florida.¹¹⁴

In general, gambling is illegal in Florida.¹¹⁵ Chapter 849, F.S., prohibits keeping a gambling house,¹¹⁶ running a lottery,¹¹⁷ or the manufacture, sale, lease, play, or possession of slot machines.¹¹⁸ However, a few gaming activities are authorized by law and regulated by the state, including pari-mutuel¹¹⁹ wagering at licensed horse tracks.¹²⁰

Pari-mutuel wagering is a system of betting on races in which the winners divide the total amount bet in proportion to the sums that they wagered and with regard to the odds assigned to the outcomes, after deducting management expenses and taxes.¹²¹ The total amount bet by pari-mutuel wager is known as “handle.”¹²²

Wagering can take place on live races that are occurring at the physical track where the gaming patron is located, and patrons can also participate in pari-mutuel wagering on “off-premises” races that are being conducted elsewhere. Wagering on “off-premises” races is known as “intertrack wagering.”¹²³

Horse tracks that race thoroughbreds – known as thoroughbred permitholders – are subject to certain taxes and fees, including:

¹¹³ FLA. THOROUGHBRED BREEDERS’ AND OWNERS’ ASS’N, *Florida-bred Incentives*, <https://www.ftboa.com/Racing/Florida-bred-Incentives> (last visited April 14, 2023).

¹¹⁴ THE FLA. THOROUGHBRED BREEDERS’ AND OWNERS’ ASS’N, *Florida-bred Incentives*, <https://www.ftboa.com/Racing/Florida-bred-Incentives> (last visited April 14, 2023).

¹¹⁵ See s. 849.08, F.S.

¹¹⁶ See s. 849.01, F.S.

¹¹⁷ See s. 849.09, F.S.

¹¹⁸ Section 849.16, F.S.

¹¹⁹ “Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. See s. 550.002(22), F.S.

¹²⁰ See ch. 550, F.S., relating to the regulation of pari-mutuel activities.

¹²¹ Section 550.002(21), F.S.

¹²² Section 550.002(12), F.S.

¹²³ Section 550.002(16), F.S.

- A 0.5 percent tax on handle for live thoroughbred horse races.¹²⁴
- A 2.4 percent tax on handle for intertrack wagering.¹²⁵
- Daily license fees of \$100 per horserace.¹²⁶
- An admissions tax of 15 percent of the admissions charge for entrance to the permitholder's facility.¹²⁷
- Additional amounts taxed under the provisions listed above when races are transmitted from a Florida track.¹²⁸

In 2020, Congress passed the Horseracing Integrity and Safety Act of 2020 (HISA) within the Consolidated Appropriations Act of 2021.¹²⁹ The HISA resulted in the creation of the Horseracing Integrity and Safety Authority (the Authority), which was created for the purposes of developing and implementing a horseracing anti-doping and medication control program and racetrack safety program.¹³⁰ The funding for the Authority is to come from assessments for racing activities within each state.¹³¹

Proposed change

The bill creates a credit for permitholders that conduct thoroughbred racing. The credit is equal to the amount paid by the permitholder in the prior fiscal year for its share of the assessments imposed by the Authority. The credit may be taken against the taxes and fees imposed under ss. 550.0951, 550.09515, and 550.3551(3), F.S., less certain other statutory credits.

The bill also amends s. 212.20, F.S., to distribute \$27.5 million of Florida sales tax receipts to the Florida Agricultural Promotional Campaign Trust Fund.

The bill creates section 571.265, F.S., relating to the promotion of Florida thoroughbred breeding and racing. The bill requires that the \$27.5 million distribution be used by the Department of Agriculture and Consumer Services to encourage breeding thoroughbred racehorses and the conducting of thoroughbred racing at thoroughbred tracks in Florida.

The bill requires that the funds be distributed as follows:

- \$5 million to the Florida Thoroughbred Breeders' Association, Inc., to be used for:
 - Purses or purse supplements for Florida-bred or Florida-sired horses that participate in Florida thoroughbred races.
 - Awards to breeders of Florida-bred horses that win, place, or show in Florida thoroughbred races.
 - Awards to owners of stallions who sired Florida-bred horses that win Florida thoroughbred stakes races, if the stallions are registered with the association as Florida stallions.

¹²⁴ Section 550.09515(2)(a), F.S.

¹²⁵ Section 550.09515(5), F.S.

¹²⁶ Section 550.0951(1)(a), F.S.

¹²⁷ Section 550.0951(2), F.S.

¹²⁸ See s. 550.3551, F.S.

¹²⁹ Pub. L. No. 116-260.

¹³⁰ Section 1203, Pub. L. No. 116-260.

¹³¹ *Id.*

- Other racing incentives connected to Florida-bred or Florida-sired horses registered with the association that participate in thoroughbred races in Florida.
- Awards administration.
- Promotion of the Florida thoroughbred breeding industry.
- \$5 million to Tampa Bay Downs, Inc., to be used as purses in thoroughbred races conducted at its pari-mutuel facilities and for the maintenance and operation of that facility, pursuant to an agreement with its local majority horsemen's group.
- \$15 million to Gulfstream Park Racing Association, Inc., to be used as purses in thoroughbred races conducted at its pari-mutuel facility and for the maintenance and operation of its facilities, pursuant to an agreement with the Florida Horsemen's Benevolent and Protective Association, Inc.
- \$2.5 million dollars to be distributed as follows:
 - \$2 million dollars to Gulfstream Park Racing Association, Inc., to be used as purses and purse supplements for Florida-bred or Florida-sired horses registered with the association that participate in thoroughbred races at the permitholder's pari-mutuel facility, pursuant to a written agreement filed with the department establishing the rates, procedures, and eligibility requirements entered into by the permitholder, the association, and the Florida Horsemen's Benevolent and Protective Association, Inc.
 - \$500,000 to Tampa Bay Downs, Inc., to be used as purses and purse supplements for Florida-bred or Florida-sired horses registered with the association that participate in thoroughbred races at the permitholder's pari-mutuel facility, pursuant to a written agreement filed with the department establishing the rates, procedures, and eligibility requirements entered into by the permitholder, the association, and the local majority horsemen's group at the permitholder's pari-mutuel facility.

On or before the first day of the August following each fiscal year in which a recipient under this section received or used funds pursuant to this section, each such recipient must submit a report to the Department of Agriculture and Consumer Services detailing how all funds were used in the prior fiscal year.

These provisions of the bill are repealed on July 1, 2026, unless reviewed and saved from repeal by the Legislature.

Sections 31, 33-34, 37 and 40 – Main Street Historic Tourism and Revitalization Corporate Income and Insurance Premium Tax Credit

Present situation

National Register of Historic Places

The National Register of Historic Places,¹³² under the National Park Service, is “part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America’s historic and archeological resources.”¹³³ The program reviews property

¹³² 54 U.S.C. s. 3021.

¹³³ U.S. DEP’T OF THE INTERIOR NAT’L PARK SERV., *National Register of Historic Places, What is the National Register of Historic Places?*, <https://www.nps.gov/subjects/nationalregister/what-is-the-national-register.htm> (last visited Apr. 15, 2023).

nominations and lists eligible properties in the National Register; offers guidance on evaluating, documenting, and listing historic places; and helps qualified historic properties receive preservation benefits and incentives.¹³⁴

Properties listed in the National Register are eligible for federal preservation tax credits. A 20 percent income tax credit is available for the rehabilitation of historic, income-producing buildings that are determined by the Secretary of the Interior, through the National Park Service, to be certified historic structures.¹³⁵ The National Parks Service reports that each year, “approximately 1,200 projects are approved, leveraging nearly \$6 billion annually in private investment in the rehabilitation of historic buildings across the country.”¹³⁶

In Florida, there are more than 1,700 properties and districts listed on the National Register. Nominations for those properties must be submitted to the National Park Service through the Florida Department of State’s Division of Resources, following a review and recommendation by the Florida National Register Review Board.¹³⁷ The cumulative total of “Qualified Rehabilitation Expenses” (the value of items that can be written off by developers on their federal tax bill) for Florida projects over the most recent five-year period (Fiscal Year 2017-2021) is \$161 million, resulting in \$32.2 million in federal tax credits.¹³⁸

Main Street America

Main Street America, a program under the National Main Street Center,¹³⁹ is a network of grassroots organizations that “revitalizes older and historic commercial districts to build vibrant neighborhoods and thriving economies.”¹⁴⁰ The program offers community-based revitalization initiatives to transform downtowns. In order to be designated as either an affiliate or accredited member of Main Street America, a community must first become a member of the National Main Street Center and meet certain requirements.¹⁴¹ Main Street America has coordinating programs that are organized at the state, county, and city level which partner with the National Main Street Center to provide support and training to Main Street America communities.

¹³⁴ U.S. DEP’T OF THE INTERIOR, NAT’L PARK SERV., *National Register of Historic Places, What is the National Register of Historic Places?*, <https://www.nps.gov/subjects/nationalregister/what-is-the-national-register.htm> (last visited Apr. 15, 2023).

¹³⁵ U.S. DEP’T OF THE INTERIOR, NAT’L PARK SERV., *Technical Preservation Services*, <https://www.nps.gov/tps/tax-incentives.htm> (last visited Apr. 15, 2023).

¹³⁶ U.S. DEP’T OF THE INTERIOR, NAT’L PARK SERV., *Historic Preservation Tax Incentives, About the Incentives*, <https://www.nps.gov/subjects/taxincentives/about.htm> (last visited Apr. 9, 2023).

¹³⁷ FLA. DEP’T OF STATE, Div. of Hist. Res., *National Register of Historic Places*, <https://dos.myflorida.com/historical/preservation/national-register/> (last visited Apr. 16, 2023).

¹³⁸ U.S. DEP’T OF THE INTERIOR, NAT’L PARK SERV., *Federal Tax Incentives for Rehabilitating Historic Buildings, Annual Report for Fiscal Year 2021*, available at <https://www.nps.gov/subjects/taxincentives/upload/report-2021-annual.pdf>. (last visited Apr. 9, 2023).

¹³⁹ The National Main Street Center was established in 1980 as a program of the National Trust for Historic Preservation as a way to address issues facing aging and historic downtowns. The Center launched the Main Street America program in 2015. See MAIN STREET AMERICA, *About Us*, <https://www.mainstreet.org/aboutus> (last visited Apr. 16, 2023).

¹⁴⁰ MAIN STREET AMERICA, *About Us*, <https://www.mainstreet.org/aboutus> (last visited Apr. 16, 2023).

¹⁴¹ MAIN STREET AMERICA, *Main Street America Designation*, available at https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/Main_Street_America_Tier_System_Overview_-_2021_July_Update.pdf (last visited Apr. 16, 2023).

Florida has two coordinating programs: Florida Main Street America located in Tallahassee and Orlando Main Street located in Orlando.¹⁴² Florida Main Street is administered by the Division of Historical Resources (division) under the Florida Department of State.¹⁴³ Forty-five Florida Main Streets and 10 Orlando Main Streets have received technical assistance toward the goal of revitalizing historic downtowns and encouraging economic development.¹⁴⁴

Florida Initiatives

Currently, Florida does not offer a similar program that provides tax credits to offset the costs of rehabilitating historic properties. The Historic Preservation Grant Program, administered by the division, provides grants for the preservation and protection of the state's historic and archaeological sites and properties. However, any property owned by private individuals or for-profit corporations are ineligible for such grants.¹⁴⁵

Florida's constitution grants any county or municipality the authority to offer ad valorem tax exemptions to owners of historic properties making preservation improvements.¹⁴⁶ Codified in the Florida Statutes under three sections, residential and commercial properties improved in a manner consistent with historic preservation standards are eligible for an exemption of up to 100 percent of the value of the improvement made to the property.¹⁴⁷ Generally, the property must be either individually listed in the National Register of Historic Places; be a contributing property to a national-register-listed district; or be designated as a historic property, or as a contributing property to a historic district. If the property is used for a governmental, not-for-profit, or commercial purpose, it must be open to the public on a regular basis. Additionally, property used for governmental or nonprofit purposes are eligible to have the entire value of the property exempted.¹⁴⁸

Proposed change

The bill creates the Main Street Historic Tourism and Revitalization Act which provides a tax credit against corporate income tax and insurance premium tax for qualified expenses¹⁴⁹ incurred in the rehabilitation of a certified historic structure.

¹⁴² MAIN STREET AMERICA, *Main Street America Coordinating Programs*, available at https://higherlogicdownload.s3.amazonaws.com/NMSC/390e0055-2395-4d3b-af60-81b53974430d/UploadedImages/The_Programs/2020_Coordinating_Program_List.pdf (last visited Apr. 16, 2023).

¹⁴³ Section 267.031(5), F.S.

¹⁴⁴ VISIT FLA., *Florida Main Street Programs Have Stories to Tell*, <https://www.visitflorida.com/travel-ideas/articles/florida-main-street/> (last visited Apr. 16, 2023).

¹⁴⁵ Section 267.0617(2), F.S.

¹⁴⁶ FLA. CONST. art. VII, s. 3.

¹⁴⁷ See ss. 196.1961, 196.1997, and 196.1998, F.S.

¹⁴⁸ Section 196.1998, F.S.

¹⁴⁹ The bill defines "qualified expenses" as qualified rehabilitation expenditures (defined in 26 U.S.C., s. 47(c)(2)) and structural components (defined in 26 C.F.R., s. 1.48-1(e)(2)) at the time of project certification by the U.S. Secretary of the Interior and the U.S. Internal Revenue Service.

Eligibility

An applicant must apply to the Department of State to receive a tax credit no later than 6 months after the date the certified historic structure is placed in service and must document that:

- The rehabilitation is a certified rehabilitation;¹⁵⁰
- The structure is a certified historic structure,¹⁵¹ is income-producing, is located within the state, and was rehabilitated and placed into service on or after January 1, 2024;
- The applicant had an ownership interest or a long-term leasehold interest in the certified historic structure in the year during which the certified historic structure was placed into service;
- The total amount of qualified expenses incurred in rehabilitating the certified historic structure exceeded \$5,000;
- The qualified expenses were incurred in Florida, and
- The applicant received a tax credit for the qualified expenses under the federal historic rehabilitation tax credit provision.¹⁵²

In the application, the applicant must also provide the division with the following:

- An official certificate of eligibility from the division attesting that the project has been approved by the National Park Service. The attestation must identify if the project is located within a Main Street local program area;
- National Park Service Form 10-168c, signed by the National Park Service attesting that the completed rehabilitation meets the U.S. Secretary of the Interior's Standards for Rehabilitation and is consistent with the historic character of the property and, if applicable, the district in which the completed rehabilitation is located;
- Identification of the dates during which the structure was rehabilitated, the date the structure was first placed into service after certified rehabilitation was completed, and evidence that the structure was placed into service after the certified rehabilitation was completed;
- A list of total qualified expenses incurred by the taxpayer in rehabilitation the certified historic structure. For certified rehabilitations with qualified expenses that exceeded \$750,000, the applicant must submit an audited cost report that itemizes the qualified expenses incurred in rehabilitating the structure. The applicant may submit an audited cost report that was created for purposes of applying for the federal historic rehabilitation tax credit;
- An attestation of the total qualified expenses incurred by the applicant in rehabilitating the certified historic structure; and
- The information required to be reported by the Department of State to enable the department to compile its annual report based on the tax credit applications submitted and approved.

¹⁵⁰ The bill defines "certified rehabilitation" as the rehabilitation of a certified historic structure that the U.S. Secretary of the Interior has certified to the U.S. Secretary of the Treasury as being consistent with the historic character of the certified historic structure and, if applicable, consistent with the registered historic district in which the structure is located. *See* 36 C.F.R., s. 67.2.

¹⁵¹ The bill defines a "certified historic structure" as a building and its structural components which is of a character subject to the allowance for depreciation provided in s. 167 of the Internal Revenue Code and which is listed on the National Register of Historic Places or located within a registered historic district and certified by the U.S. Secretary of the Interior as being of historic significance to the registered historic district.

¹⁵² 26 U.S.C. s. 47.

Applicants may begin the process for a determination of eligibility before the certified historic structure is placed in service; however, final determination is withheld until the certified historic structure is placed in service.

Within 90 days after receipt of the information detailed above or the certified historic structure is placed in service, whichever is later, the division shall approve or deny the application. If approved, the division must provide a letter to the applicant. If the taxpayer is denied, the division must inform the applicant of the grounds for denial. The division must submit to the Department of Revenue a copy of the certification and the information provided by the applicant within 10 days after the division's approval.

Certified Rehabilitation Tax Credit

For taxable years beginning on or after January 1, 2024, there is allowed a credit against the corporate income or insurance premium tax in an amount equal to:

- Twenty percent of the total qualified expenses incurred in rehabilitating a certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit; or
- Thirty percent of the total qualified expenses incurred in rehabilitating a certified historic structure that has been approved by the National Park Service to receive the federal historic rehabilitation tax credit and that is located within a local program area of an Accredited Main Street Program.

If a taxpayer is eligible for a tax credit that exceeds taxes owed, the taxpayer may carry the unused tax credit forward for a period of up to five taxable years.

Sale or Transfer of Tax Credit

The bill provides that there is no limit on the total number of transactions for the sale or transfer of all or part of a tax credit. However, qualified expenses may only be counted once in determining the amount of an available tax credit, and no more than one taxpayer may claim a tax credit for the same qualified expenses.

A taxpayer that sells or transfers a tax credit and the purchaser or transferee must jointly submit written notice of the sale or transfer to the Department of Revenue no later than the 30th day after the date of the sale or transfer. The notice must include the following information:

- The date of the sale or transfer;
- The amount of the tax credit sold or transferred;
- The name and federal tax identification number of the taxpayer that sold or transferred the tax credit and the purchaser or transferee; and
- The amount of the tax credit owed by the taxpayer before the sale or transfer and the amount the selling or transferring taxpayer retained, if any, after the sale or transfer.

The sale or transfer of a tax credit does not extend the period for which a tax credit may be carried forward and does not increase the total amount of the tax credit that may be claimed.

A tax credit earned, purchased, or transferred to a partnership, limited liability company, S corporation, or other pass-through taxpayer may be allocated to the partners, members, or shareholders of that taxpayer without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure.

If the tax credit is reduced due to a determination, examination, or audit by the Department of Revenue, the tax deficiency must be recovered from the taxpayer that sold or transferred the tax credit or the purchaser or transferee that claimed the tax credit up to the amount of the tax credit taken. Any subsequent deficiencies must be assessed against the purchaser or transferee that claimed the tax credit, or in the case of multiple succeeding entities, in the order of tax credit succession.

Department of Revenue and Division Audit Authority

The Department of Revenue, with assistance from the division, is authorized to perform additional financial and technical audits and examinations, including examining the accounts, books, or records of the tax credit applicant, to verify the legitimacy of the qualified expenses included in a tax credit return and to ensure compliance. The division must provide technical assistance for any technical audits or examinations if requested by the Department of Revenue.

It is grounds for forfeiture of previously claimed and received tax credits if the Department of Revenue determines that a taxpayer received a tax credit to which the taxpayer was not entitled. The taxpayer must return the forfeited tax credits to the Department of Revenue, which will then be paid into the General Revenue Fund.

The taxpayer must file an amended tax return and pay any required tax within 60 days after the taxpayer receives notification from the Internal Revenue Service that a previously approved tax credit has been revoked or modified, if uncontested, or within 60 days after a final order is issued following proceedings involving a contested revocation or modification order.

The Department of Revenue may issue a notice of deficiency at any time within five years after the date on which the taxpayer receives notification from the Internal Revenue Service that a previously approved tax credit has been revoked or modified.

The Department of Revenue may issue a notice of deficiency at any time if the taxpayer fails to notify the Department of Revenue of any change in its tax credit claimed. The amount of any proposed assessment in the notice of deficiency is limited to the amount of the tax credit claimed. Furthermore, a taxpayer is subject to applicable penalties and interest for failing to report and timely paying any tax due as a result of the forfeiture of its tax credit.

Other Provisions

The Department of State must provide a report annually by December 1 which identifies, in the aggregate, the number of employees hired during construction phases, the use of each newly rehabilitated building, the expected number of employees hired, the number of affordable housing units created or preserved, and the property values before and after the certified rehabilitations.

The Department of Revenue must also establish a cooperative agreement with the division; adopt any necessary forms required to claim a tax credit; provide administrative guidelines and procedures required to administer the Act, including rules establishing an entitlement to and sale or transfer of a tax credit; and provide examination and audit procedures required to administer the Act.

The Department of Revenue is authorized to make available to the division and the Secretary of the Department of the Interior of the United States information relating to the Act.

The credit applies to taxable years beginning on or after January 1, 2024.

Sections 31-34 – Graywater Systems Corporate Income Tax Credit

Present situation

Graywater, Residential Systems, and Development Incentives

Graywater is the part of domestic sewage that is not carried off by toilets, urinals, and kitchen drains. It includes waste from the bath, lavatory, laundry, and sink, except for kitchen sink waste.¹⁵³ Graywater installations occur in both residential and non-residential properties and the capture, treatment, and reuse of graywater yields usable water that would otherwise be directed to the sewer.¹⁵⁴ Reusing graywater also supplants the use of potable water for non-potable needs and conserves fresh water.¹⁵⁵

The Florida Building Code specifies that graywater may only be used for flushing toilets and urinals. Any discharge from the building must be connected to a public sewer or an onsite sewage treatment and disposal system in accordance with Department of Health regulations in chapter 64E-6 of the Florida Administrative Code.¹⁵⁶ Graywater systems in Florida have several requirements: the graywater must be filtered, disinfected, and dyed; and storage reservoirs must have drains and overflow pipes that must be indirectly connected to the sanitary drainage system.¹⁵⁷

To encourage adoption of residential graywater reuse in the state, counties, municipalities, and special districts are required to implement incentives for the use of graywater technologies.¹⁵⁸ To do this, they must authorize the use of residential graywater technologies in their respective jurisdictions and provide specific density or intensity bonuses to developers or homebuilders if a

¹⁵³ Section 381.0065(2)(f), F.S.

¹⁵⁴ ALL FOR WATER EFFICIENCY, *Graywater Systems*, <https://www.allianceforwaterefficiency.org/resources/topic/graywater-systems> (last visited Apr. 15, 2023).

¹⁵⁵ Martinez, Christopher J., *Gray Water Reuse in Florida*, UNIV. OF FLA. IFAS EXTENSION, available at <https://edis.ifas.ufl.edu/publication/ae453> (last visited Apr. 15, 2023).

¹⁵⁶ 2020 FLORIDA BUILDING CODE – PLUMBING, SEVENTH EDITION (Dec. 2020), available at <https://codes.iccsafe.org/content/FLPC2020P1> (last visited Apr. 16, 2023).

¹⁵⁷ 2020 FLORIDA BUILDING CODE – PLUMBING, SEVENTH EDITION (Dec. 2020), available at: <https://codes.iccsafe.org/content/FLPC2020P1> (last visited Apr. 16, 2023).

¹⁵⁸ Section 403.892(2), F.S.

certain percentage of a proposed or existing development will have a graywater system installed.¹⁵⁹

Water Reuse Systems Certification

Various certifications are used to establish standards for reused water. Recycled graywater is tested for attributes such as biochemical oxygen demand, suspended solids, and bacteria presence. The National Science Foundation, a federal agency, and the American National Standards Institute, a nonprofit organization, have produced standards for on-site residential and commercial water reuse treatment systems, the most rigorous of which is referred to as “NSF/ANSI 350.” Products are tested for at least 26 weeks for performance, and other evaluations are completed, before a product is granted certification.¹⁶⁰ There are several products that have achieved this certification, with costs ranging from \$1,000 to \$10,000.¹⁶¹

Proposed change

The bill creates s. 220.199, F.S., which provides a tax credit against corporate income tax for developers and homebuilders that purchase a qualifying residential graywater system for use in Florida. The credit may be applied to taxable years beginning on or after January 1, 2024, and is equal to 50 percent of the cost of each system purchased during the taxable year, not to exceed \$4,200 per system purchased.

Eligible systems must be NSF/ANSI 350 Class R certified noncommercial, residential graywater systems. To claim a credit, an applicant must submit to the Department of Environmental Protection reasonable assurances that the system meets these requirements as well as a manufacturer’s warranty assuring the system will function as designed. The Department must, within 60 days of a completed application, determine if the applicant is eligible for a credit and issue to the applicant and the Department of Revenue a certification to that effect. Taxpayers must attach the certification to the tax return on which the credit is claimed.

The bill provides that unused tax credits may be carried forward for up to two taxable years, and authorizes the Department of Revenue and the Department of Environmental Protection to adopt rules to administer the tax credit.

The bill amends s. 220.02(8), F.S., to include the new tax credit at the end of the Legislature’s intended order of tax credit application.

The bill amends s. 220.13, F.S., to provide that a taxpayer may not apply the same credit to both federal income and Florida corporate income taxes.

¹⁵⁹ Section 403.892(2), F.S.

¹⁶⁰ NAT’L SCI. FOUND., *NSF/ANSI Standard 350 for Water Reuse Treatment Systems*, available at https://d2evkimvhatqav.cloudfront.net/documents/ww_nsf_ansi350_qa_insert.pdf (last visited Apr. 16, 2023).

¹⁶¹ NAT’L SCI. FOUND., *NSF/ANSI Standard 350 for Water Reuse Treatment Systems*, available at https://d2evkimvhatqav.cloudfront.net/documents/ww_nsf_ansi350_qa_insert.pdf (last visited Apr. 16, 2023). See also Todd Woody, *Install a Greywater System to Lower Utility Bills and Save Water*, BLOOMBERG NEWS, Mar. 17, 2022, available at <https://www.bloomberg.com/news/articles/2022-03-17/why-you-should-install-a-home-greywater-system?leadSource=uverify%20wall> (last visited Apr. 16, 2023).

Sections 35 and 36 – Credit for Rehabilitating Contaminated Sites (Brownfields)

Present situation

In 1998, the Legislature provided the Department of Environmental Protection the direction and authority to issue tax credits to encourage site rehabilitation in brownfield areas and to encourage voluntary cleanup of certain other types of contaminated sites.

This corporate income tax credit is equal to 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites:

- A site eligible for state-funded cleanup under the Drycleaning Solvent Cleanup Program;¹⁶²
- A drycleaning solvent contaminated site at which the real property owner undertakes voluntary cleanup, provided that the real property owner has never been the owner or operator of the drycleaning facility; or
- A brownfield site in a designated brownfield area.¹⁶³

The credits are limited as follows:

- Eligible tax credit applicants may receive up to \$500,000 per site per year in tax credits.
- The total amount of tax credits for all sites that may be granted by the Department of Environmental Protection is \$10 million annually.
- In the event that approved tax credit applications exceed the \$10 million annual authorization, the statute provides for remaining applications to roll over into the next fiscal year to receive tax credits in first come, first served order from the next year's authorization.

Between 1998 and 2020, the VCTC Program approved approximately \$120.7 million in VCTCs.¹⁶⁴ Since 2008, the tax credits approved have consistently exceeded the original \$2 million cap. The Legislature increased the cap from \$2 million to \$5 million in 2011, and then to \$10 million in 2017. The Legislature provided for a one-time increase in 2015 (from \$5 million to \$21.6 million) to clear the backlog at that time,¹⁶⁵ and again in FY 2018-19, when an additional \$8.5 million was authorized.¹⁶⁶

Proposed change

The bill appropriates an additional \$150 million for credits in Fiscal Years 2023-2024 through 2027-2028.

¹⁶² Section 376.30781, F.S.

¹⁶³ Section 220.1845, F.S.

¹⁶⁴ FLA. DEP'T OF ENV. PROT., FLORIDA BROWNFIELDS REDEVELOPMENT PROGRAM ANNUAL REPORT AUGUST 2020, 6, available at https://floridadep.gov/sites/default/files/2019-20_BF_Annual_Report_Final_Cover_Letter.pdf (last visited Apr. 15, 2023).

¹⁶⁵ FLA. DEP'T OF ENV. PROT., FLORIDA BROWNFIELDS REDEVELOPMENT PROGRAM ANNUAL REPORT AUGUST 2020, 6, available at https://floridadep.gov/sites/default/files/2019-20_BF_Annual_Report_Final_Cover_Letter.pdf (last visited Apr. 15, 2023).

¹⁶⁶ Section. 220.1845(2)(f), F.S.

Section 38 – Corporate Income Tax Penalty Calculation

Present Situation

Florida has four “tax donation” programs that grant credits to corporate income taxpayers when the taxpayer makes a donation to the following programs:

- The Florida Tax Credit Scholarship Program.
- The New Worlds Reading Initiative.
- The Strong Families Tax Credit.
- The Live Local Program.¹⁶⁷

These programs allow taxpayers to effectively make their tax payments directly to the programs, in lieu of making their payments to the Department of Revenue. The taxpayers receive a credit which they use to avoid paying any additional amount to the Department of Revenue when they file their tax returns.

Florida’s corporate income tax code allows taxpayers to request and receive an extension to file a tax return if they have extended their federal return or for other good cause, so long as they file a tentative tax return and pay, on or before the original due date, the amount estimated to be due.¹⁶⁸ The extension is not valid, and interest and penalties may apply, if the taxpayer underpays the estimated tax due by more than the greater of \$2,000 or 30 percent of the tax shown on the return when filed.¹⁶⁹

For purposes of calculating whether the underpayment is “more than 30 percent of the tax shown,” the Department of Revenue does not currently treat contributions made under any of the credit programs mentioned above as tax shown or tax paid. Instead, the calculation is based on the remaining tax shown to be due on the return after credits are taken.

Proposed change

The bill clarifies that for purposes of the underpayment penalty, and related extension revocations and interest charges that the “tax shown on the return when filed” includes the amount of allowable credits taken on the return pursuant to the Florida Tax Credit Scholarship Program, the New Worlds Reading Initiative Tax Credit, or the Strong Families Tax Credit. This treatment is already provided for the Live Local Program.

Section 39 – Strong Families Tax Credit Limit Permanent Increase

Present situation

The Strong Families Tax Credit Program, established in s. 402.60, F.S., was created in 2021 to provide tax credits for businesses that make monetary donations to certain eligible charitable organizations that provide services focused on child welfare and well-being. The tax credits are a dollar-for-dollar credit against certain tax liabilities.

¹⁶⁷ See ss. 220.1875, 220.1876, 220.1877, and 220.1878, F.S. Section 220.1878, F.S., is not yet published in the Florida Statutes; it was recently created by ch. 2023-17, Laws of Fla.

¹⁶⁸ Section 220.222(2), F.S.

¹⁶⁹ Section 220.222(2)(c), F.S.

The tax credit can be taken against the business’s liability for several state taxes, including:

- Corporate income tax;
- Insurance premium tax;
- Severance taxes on oil and gas production;
- Alcoholic beverage tax on beer, wine, and spirits; or
- Self-accrued sales tax liability of direct pay permit holders.

The annual tax credit cap for all credits under the program is \$10 million per fiscal year. The Department of Revenue is required to approve the tax credits on a first-come, first-served basis and must obtain the approval of the Department of Business and Professional Regulation prior to approving an alcoholic beverage tax credit under s. 561.1213, F.S.

Businesses that wish to participate in the program must apply to the Department of Revenue beginning October 1, 2021, for an allocation of tax credit. The taxpayer must specify in the application each tax for which the taxpayer requests a credit, the applicable taxable year for a credit under ss. 220.1877 or 624.51057, F.S., relating to the corporate income and insurance premium tax credits, and the applicable state fiscal year for a credit under ss. 211.0253, 212.1834, or 561.1213, F.S., relating to oil and gas production, direct pay permit sales, and alcoholic beverage tax credits, respectively.

Proposed change

The bill amends s. 402.62, F.S., to increase the maximum credits under the program from \$10 million per fiscal year to \$20 million per fiscal year, beginning in Fiscal Year 2023-2024.

Section 41 – Back-to-School Sales Tax Holiday – 28 days – July 24, 2023, through August 6, 2023, and January 1, 2024, through January 14, 2024

Present situation

Florida has enacted a “back-to-school” sales tax holiday twenty-one times since 1998. 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/ Learning Aids/ Puzzles	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 (Books)	N/A	\$10 or less
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less (Books)	N/A	\$10 or less

July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less (Books)	N/A	\$10 or less
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less (Books)	N/A	\$10 or less
August 13-15, 2010	3 days	\$50 or less	\$50 or less	\$50 or less (Books)	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
August 2-6, 2019	5 days	\$60 or less	\$60 or less	N/A	\$1,000 or less	\$15 or less
August 7-9, 2020	3 days	\$60 or less	\$60 or less	N/A	First \$1,000 of the sales price	\$15 or less
July 31-August 9, 2021	10 days	\$60 or less	\$60 or less	N/A	First \$1,000 of the sales price	\$15 or less
July 25-August 7, 2022	14 days	\$100 or less	\$100 or less	\$30 (Learning Aids/Puzzles)	\$1,500 or less	\$50 or less

Proposed change

The bill provides for a sales tax holiday from July 24, 2023, through August 6, 2023, and from January 1, 2024, through January 14, 2024. During the holiday, the following items that cost \$100 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 \$50 or less per item, and learning aids and jigsaw puzzles that cost \$30 or less per item. “Learning aids” are defined as “flashcards or other learning cards, matching or other memory games, puzzle books and search-and-find books, interactive or electronic books and toys intended to teach reading or math skills, and stacking or nesting blocks or sets.”

The bill exempts personal computers and related accessories with a sales price of \$1,500 or less which are purchased for noncommercial home or personal use. This includes tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted.

Dealers are authorized to opt out of the “back-to-school” sales tax holiday 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 July 17, 2023, for the holiday beginning in July, and by December 23, 2023, for the holiday beginning in January 2024, the dealer must notify the Department of Revenue 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 holiday does 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.

Section 42 - Disaster Preparedness Sales Tax Holiday – 14 days – May 27, 2023, through June 09, 2023

Present situation

Florida has enacted a disaster preparedness sales tax holiday 9 times since 2006. During these holidays, the following items were exempt:

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
May 31-June 6, 2019	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
May 29-June 4, 2020	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
May 28 – June 6, 2021***	10 days	\$20 or less	\$40 or less	\$50 or less	\$50 or less	\$60 or less	\$50 or less	\$100 or less	\$1000 or less
May 28 – June 10, 2022****	14 days	\$20 or less	\$40 or less	\$50 or less	\$50 or less	\$60 or less	\$50 or less	\$100 or less	\$1000 or less

A few of the holidays have included items that were not repeated every year. For instance, the 2006 and 2007 holidays included cell phone batteries (\$60 or less), cell phone chargers (\$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 fold together for \$75 or less. The 2021 holiday included portable power banks selling for \$60 or less. The 2022 holiday included portable power banks selling for \$60 or less, smoke detectors, smoke alarms, fire extinguishers, or carbon monoxide detectors selling for \$70 or less; and specified items necessary for the evacuation of household pets, with item thresholds ranging from \$2 (wet pet food) to \$100 (portable kennels or carriers).

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.¹⁷⁰

Proposed change

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 \$40 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 \$100 or less.
- An item normally sold as, or generally advertised as, a ground anchor system or tie-down kit selling for \$100 or less.
- A gas or diesel fuel tank selling for \$50 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 \$50 or less.
- A nonelectric food storage cooler selling for \$60 or less.
- A portable generator used to provide light or communications or preserve food in the event of a power outage selling for \$3,000 or less.
- Reusable ice selling for \$20 or less.
- A portable power bank selling for \$60 or less.
- A smoke detector or smoke alarm selling for \$70 or less.
- A fire extinguisher selling for \$70 or less.
- A carbon monoxide detector selling for \$70 or less.
- Supplies necessary for the evacuation of household pets.¹⁷¹ For purposes of this exemption, necessary supplies are the noncommercial purchase of:
 - Bags of dry dog food or cat food weighing 50 or fewer pounds with a sales price of \$100 or less per bag.
 - Cans or pouches of wet dog food or cat food with a sales price of \$10 or less per can or pouch or the equivalent if sold in a box or case.
 - Over-the-counter pet medications with a sales price of \$100 or less per item.
 - Portable kennels or pet carriers with a sales price of \$100 or less per item.
 - Manual can openers with a sales price of \$15 or less per item.
 - Leashes, collars, and muzzles with a sales price of \$20 or less per item.
 - Collapsible or travel-sized food bowls or water bowls with a sales price of \$15 or less per item.
 - Cat litter weighing 25 or fewer pounds with a sales price of \$25 or less per item.

¹⁷⁰ FLA. DIV. OF EMERGENCY MGMT., *Disaster Supply Kit Checklist*, available at <https://www.floridadisaster.org/planprepare/hurricane-supply-checklist/> (last visited Apr. 16, 2023).

¹⁷¹ The list of supplies necessary for the evacuation of household pets were identified by Girl Scout Troop 60601 as part of their Pet Preparedness Project they did for the Girl Scout Silver Award, the second highest honor a Girl Scout can earn. They noted in their request that “Per Pawlicy.com, 56% of Florida households own a pet. According to the website Statista.com, the annual expenses for dog owners is about \$1200 and cats about \$700... We know you care about the health and safety of Floridians’ pets because they are truly part of our family.” Additional information about storm preparation for pets is available at <https://www.facebook.com/PetPreparednessProject> (last visited Apr. 16, 2023), and more information on their initiative is available at <https://www.change.org/p/governor-ron-desantis-please-make-pet-supplies-a-part-of-the-florida-disaster-preparedness-tax-holiday-2022> (last visited Apr. 16, 2023).

- Cat litter pans with a sales price of \$15 or less per item.
- Pet waste disposal bags with a sales price of \$15 or less per package.
- Pet pads with a sales price of \$20 or less per box or package.
- Hamster or rabbit substrate with a sales price of \$15 or less per package.
- Pet beds with a sales price of \$40 or less per item.
- Portable kennels or pet carriers selling for \$100 or less;
- Common household consumable items with a sales price of \$30 or less. For purposes of this paragraph, the term “common household consumable items” means:
 - The following laundry detergent and supplies: powder detergent; liquid detergent; or pod detergent, fabric softener, dryer sheets, stain removers, and bleach.
 - Toilet paper.
 - Paper towels.
 - Paper napkins and tissues.
 - Facial tissues.
 - Hand soap, bar soap and body wash.
 - Sunscreen and sunblock.
 - Dish soap and detergents, including powder detergents, liquid detergents, or pod detergents or rinse agents that can be used in dishwashers.
 - Cleaning or disinfecting wipes and sprays.
 - Hand sanitizer.
 - Trash bags.

The holiday does 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.

Section 43 – Recreational Sales Tax Holiday (“Freedom Summer”) – 3 months – May 29, 2023, through September 4, 2023

Present situation

Florida enacted a recreational sales tax holiday in 2021 and 2022. In both years, the sales tax holiday was one week, held at the beginning of July. The holiday exempted recreational equipment and certain admissions to events.

Proposed change

The bill provides for a 14-week sales tax holiday from May 29, 2023, through September 4, 2023, for specified admissions and items related to recreational activities. During the sales tax holiday, the following admissions, if purchased during this week, are exempt from the state sales tax and county discretionary sales surtaxes:¹⁷²

- A live music event scheduled to be held between May 29, 2023, and December 31, 2023;
- A live sporting event scheduled to be held between May 29, 2023, and December 31, 2023;

¹⁷² If an admission is purchased exempt under this section and is subsequently resold outside of the holiday period, tax will be collected on the resale price.

- A movie shown in a movie theater between May 29, 2023, and December 31, 2023;
- Entry to a museum, including annual passes;
- Use of or access to state parks, including annual passes;
- Entry to a ballet, play, or musical theatre performance scheduled to be held between May 29, 2023, and December 31, 2023;
- Season tickets to ballet, play, music events, or musical theatre performances;
- Entry to a fair, festival, or cultural event scheduled to be held between May 29, 2023, and December 31, 2023; and
- Use of or access to gyms and physical fitness facilities between May 29, 2023, and December 31, 2023.

During the sales tax holiday, the following items are exempt from the state sales tax and discretionary sales surtax:

- Boating and Water Activity Supplies
 - jackets, coolers, paddles, and oars selling for \$75 or less;
 - Recreational pool tubes, pool floats, inflatable chairs, and pool toys selling for \$35 or less;
 - safety flares selling for \$50 or less;
 - Water skis, wakeboards, kneeboards, and recreational inflatable tubes or floats capable of being towed selling for \$150 or less;
 - Paddleboards and surfboards selling for \$300 or less;
 - Canoes and kayaks selling for \$500 or less; and
 - Snorkels, goggles, and swimming masks selling for \$25 or less.
- Camping Supplies
 - Tents selling for \$200 or less;
 - Sleeping bags, portable hammocks, camping stoves, and collapsible camping chairs selling for \$50 or less; and
 - Camping lanterns or flashlights selling for \$30 or less.
- Fishing Supplies¹⁷³
 - Rods and reels selling for \$75 or less, if sold individually, or selling for \$150 or less if sold as a set;
 - Tackle boxes or bags selling for \$30 or less; and
 - Bait or fishing tackle selling for \$5 or less, if sold per item, or selling for \$10 or less if multiple items are sold together.
- General Outdoor Supplies
 - Sunscreen or insect repellent selling for less than \$15 or less;
 - Sunglasses selling for \$100 or less;
 - Binoculars selling for \$200 or less;
 - Water bottles selling for \$30 or less;
 - Hydration packs selling for \$50 or less;
 - Outdoor gas or charcoal grills selling for \$250 or less;
 - Bicycle helmets selling for \$50 or less; and
 - Bicycles selling for \$500 or less.

¹⁷³ The exemption for fishing supplies does not apply to supplies used for commercial fishing purposes.

- Residential Pool Supplies
 - Individual residential pool and spa replacement parts, nets, filters, lights, and covers selling for \$100 or less; and
 - Residential pool and spa chemicals purchased by an individual selling for \$150 or less
- Children’s Athletic Equipment
 - A consumer product, selling for \$100 or less, that is designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when child engages in athletic activity.
- Children’s Toys
 - A consumer product, selling for \$75 or less, designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays.

The holiday does 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.

Section 44 - Skilled Worker Tools Sales Tax Holiday – 7 days – September 2, 2023, through September 8, 2023

Present situation

In 2022, the Legislature enacted a seven-day sales tax holiday, during the week surrounding Labor Day, on tools used in skilled trades. Currently, there is no exemption for tools used by skilled trade workers, such as carpenters, electricians, plumbers, welders, pipefitters, masons, painters, heating and air conditioning technicians, and other service technicians.

Proposed change

The bill provides a seven-day sales tax holiday from September 2, 2023, through September 8, 2023 for specified tools commonly used by skilled trade workers. During the sales tax holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- Hand tools selling for \$50 or less;
- Power tools selling for \$300 or less;
- Power tool batteries selling for \$150 or less;
- Work gloves selling for \$25 or less;
- Safety glasses selling for \$50 or less;
- Protective coveralls selling for \$50 or less;
- Work boots selling for \$175 or less;
- Tool belts selling for \$100 or less;
- Duffle/tote bags selling for \$50 or less;
- Tool boxes selling for \$75 or less;
- Tool boxes for vehicles selling for \$300 or less;
- Industry text books and code books selling for \$125 or less;
- Electrical voltage and testing equipment selling for \$100 or less;
- LED flashlights selling for \$50 or less;

- Shop lights selling for \$100 or less;
- Handheld pipe cutters, drain opening tools, and plumbing inspection equipment selling for \$150 or less;
- Shovels selling for \$50 or less;
- Rakes selling for \$50 or less;
- Hard hats and other head protection selling for \$100 or less;
- Hearing protection items selling for \$75 or less;
- Ladders selling for \$250 or less;
- Fuel cans selling for \$50 or less; and
- High visibility safety vest selling for \$30 or less.

The holiday does 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.

Section 45 - Energy Efficient Appliances 1-Year Sales Tax Exemption – July 1, 2023, through June 30, 2024

Present situation

The federal government, through the Environmental Protection Agency, certifies a number of products for their efficiency under the ENERGY STAR program.¹⁷⁴ Products in the ENERGY STAR program are normally affixed with a label noting their certification under the applicable program.¹⁷⁵

From October 5 through October 11, 2006, Florida exempted from the sales and use tax specified energy efficient products priced under \$1,500 and that met or exceeded the requirements of the federal ENERGY STAR program and were sold for noncommercial home or personal use.¹⁷⁶

From September 19, 2014 through September 21, 2014, Florida provided a sales tax exemption on the first \$1,500 of the sales price of specified new ENERGY STAR products or WaterSense¹⁷⁷ products.¹⁷⁸

A person was limited to a single purchase for each specific type of item listed above with a sales price over \$500 during the holiday. A second purchase of the same type of product was subject to tax on the entire price. There was no requirement that the purchase be for personal use, or any

¹⁷⁴ Information about this program is available at <https://www.energystar.gov/about> (last visited Apr. 16, 2023).

¹⁷⁵ See <https://www.energystar.gov/products> for more information about labeling and qualifying products (last visited Apr. 16, 2023).

¹⁷⁶ Section 6, ch. 2006-230, Laws of Fla. The items exempted were refrigerators, dishwashers, clothes washers, air conditioners, ceiling fans, light bulbs, dehumidifiers, and thermostats.

¹⁷⁷ The federal WaterSense program certifies items that are water-efficient. Information about this program is available at <https://www.epa.gov/watersense> (last visited Apr. 16, 2023).

¹⁷⁸ Section 21, ch. 2014-38, Laws of Fla. The ENERGY STAR items exempted were room air conditioners, air purifiers, ceiling fans, clothes washers, clothes dryers, dehumidifiers, dishwashers, freezers, refrigerators, water heaters, swimming pool pumps, and light bulbs. The WaterSense items exempted were bathroom sink faucets, faucet accessories, high-efficiency toilets and urinals, showerheads, and weather or sensor-based irrigation controllers.

specific prohibition against purchases for commercial use beyond the limit on the number of items that could be purchased without paying tax.

Proposed change

The bill creates a one-year sales tax exemption from July 1, 2023, through June 30, 2024, on the retail sale of these ENERGY STAR appliances:

- Refrigerators or combined refrigerator/freezers selling for \$4,500 or less; and
- Water heaters and clothes washers or dryers selling for \$1,500 or less.

Section 46 – Gas Ranges and Cooktops -- 1-Year Sales Tax Exemption – July 1, 2023, through June 30, 2024

Present situation

The U.S. Energy Information Administration estimates that eight percent of Florida households use natural gas cooking appliances.¹⁷⁹ On average, natural gas is cheaper than electricity.¹⁸⁰ Additionally, gas ranges and cooktops allow for rapid temperature changes while cooking.¹⁸¹

Currently, the retail sale of gas ranges and cooktops is not exempt from sales tax.

Proposed change

The bill provides a one-year sales tax exemption, from July 1, 2023, to June 30, 2024, on the retail sale of gas ranges and cooktops, which are defined as any range or cooktop fueled by combustible gas such as natural gas, propane, butane, liquefied petroleum gas, or other flammable gas. It does not include outdoor gas grills, camping stoves, or other portable stoves.

Section 47 authorizes the Department of Revenue to adopt emergency rules pursuant to implement the provisions of the bill that amend s. 212.08, F.S., create ss. 220.197 and 220.199, F.S., and the temporary tax exemptions for ENERGY STAR appliances and gas ranges and cooktops. The emergency rules are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules. The rulemaking authority expires July 1, 2026.

Section 48 provides an effective date of July 1, 2023, except as otherwise provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that, except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature

¹⁷⁹ U.S. ENERGY INFO. ADMIN., *Highlights for Appliances in U.S. Homes by State, 2020*, available at <https://www.eia.gov/consumption/residential/data/2020/state/pdf/State%20Appliances.pdf> (last visited Apr. 16, 2023).

¹⁸⁰ U.S. ENERGY INFO. ADMIN., *Florida State Energy Profile*, <https://www.eia.gov/state/print.php?sid=FL> (last visited Apr. 16, 2023).

¹⁸¹ WHIRLPOOL, *Gas vs. Electric Stoves: Which is Best?*, <https://www.whirlpool.com/blog/kitchen/electric-vs-gas-ranges.html> (last visited Apr. 16, 2023).

may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,¹⁸² which is \$2.3 million or less for Fiscal Year 2023-2024.¹⁸³

The bill is estimated to reduce the authority local governments have to raise revenue from local option sales taxes and property taxes by \$107.6 million in Fiscal Year 2023-2024; therefore, this bill may be a mandate subject to the requirements of Art. VII, s. 18(b) of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

This bill does not create or raise a state tax or fee. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill reduces revenues in total by \$1,198.2 million, which is the sum of \$420.5 million (recurring), and \$777.7 million (pure nonrecurring in Fiscal Year 2023-2024 and reductions resulting from nonrecurring impacts in future years). Total tax reductions 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 bill reduces revenues in Fiscal Year 2023-2024 by \$973.4 million (\$420.5 million recurring); General Revenue Fund receipts are reduced by \$780.9 million (\$338.3 million

¹⁸² FLA. CONST. art. VII, s. 18(d). An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. *See* FLA. SENATE COMM. ON CMY. AFFAIRS, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Apr. 16, 2023).

¹⁸³ Based on the Demographic Estimating Conference's estimated population adopted on July 18, 2022. The conference packet is available at <http://www.edr.state.fl.us/Content/conferences/population/archives/220718demographic.pdf> (last visited Apr. 16, 2023).

recurring), state trust fund receipts are reduced by \$5.4 million (\$5.2 million recurring); and local government revenue is reduced by \$187.0 million (\$77.0 million recurring), as displayed in table 1 below.

	General Revenue		State Trust Funds		Local/Other		Total	
	1st Yr.	Recur.	1st Yr.	Recur.	1st Yr.	Recur.	1st Yr.	Recur.
Fiscal Year 2023-2024								
1 Sales Tax: Adult Incontinence Products - Perm	(19.9)	(21.7)	(*)	(*)	(5.3)	(5.8)	(25.2)	(27.5)
2 Sales Tax: Baby and Toddler Products - Perm	(114.9)	(125.3)	(*)	(*)	(30.6)	(33.4)	(145.5)	(158.7)
3 Sales Tax: Oral Hygiene Products - Perm	(28.7)	(31.4)	(*)	(*)	(7.7)	(8.4)	(36.4)	(39.8)
4 Sales Tax: Collection Allowance - First \$45 - Perm	(96.7)	(105.5)	-	-	-	-	(96.7)	(105.5)
5 Sales Tax: Energy Star Appliances - 1 Year	(62.4)	-	(*)	-	(16.6)	-	(79.0)	-
6 Sales Tax: Gas Ranges and Cooktops - 1 Year	(5.0)	-	(*)	-	(1.3)	-	(6.3)	-
7 Sales Tax: Freedom Summer - 3 Months	(181.6)	-	(*)	-	(48.3)	-	(229.9)	-
8 Sales Tax: Back-to-School Sales Tax Holiday - 2 * 2 Weeks	(126.8)	-	(*)	-	(33.8)	-	(160.6)	-
9 Sales Tax: Disaster Preparedness Holiday - 14 Days	(56.8)	-	(*)	(*)	(15.1)	-	(71.9)	-
10 Sales Tax: Skilled Worker Tool Holiday - 7 Days	(12.2)	-	(*)	-	(3.2)	-	(15.4)	-
11 Sales Tax: Exempt Renewable Natural Gas Machinery and Equipment	(1.5)	(0.7)	(*)	(*)	(0.4)	(0.2)	(1.9)	(0.9)
12 Sales Tax: Exempt Firearm Storage Devices	(3.2)	(3.6)	(*)	(*)	(0.8)	(0.9)	(4.1)	(4.5)
13 Sales Tax: Distribute Tax Receipts on Equine Products	(27.5)	-	-	-	-	-	(27.5)	-
14 Ad Valorem: Parsonages and Burial Grounds	-	-	-	-	-	-	-	-
15 Ad Valorem: 197.319 Property Tax Refund	-	-	-	-	-	-	-	-
16 Ad Valorem: Educational Property - 10 yrs.	-	-	-	-	-	(4.4)	-	(4.4)
17 Ad Valorem: Educational Property - 98 yr. lease	-	-	-	-	-	(*)	-	(*)
18 Ad Valorem: Expanded Definition of First Responders for Homestead Exemption	-	-	-	-	-	(*)	-	(*)
19 Ad Valorem: Veteran's Disability Property Tax Exemption Transfer	-	-	-	-	-	-	-	-
20 Ad Valorem: Exemptions for Total and Permanently Disabled Vets.	-	-	-	-	(0.1)	(0.2)	(0.1)	(0.2)
21 Special Assessments: Prohibition of Special Assessments on Agricultural Lands	-	-	-	-	(23.7)	(23.7)	(23.7)	(23.7)
22 Corp. Inc. Tax: Brownfields Rehabilitation Tax Credit Cap Increase - 5 yrs.	(32.9)	-	-	-	-	-	(32.9)	-
23 Corp. Inc. Tax: Underpayment Penalty Calculation - Tax Donation Programs	0/(*)	(*)	-	-	-	-	0/(*)	(*)
24 Corp. Inc. Tax: Residential Graywater Systems Tax Credit	(**)	(**)	-	-	-	-	(**)	(**)
25 CIT/IPT: Historic Property Tax Credit	-	(39.3)	-	-	-	-	-	(39.3)
26 Doc Stamp Tax: Exemption for Alarm System Contractors	(0.8)	(0.8)	(0.7)	(0.7)	-	-	(1.5)	(1.5)
27 Doc & Intang. Tax: 504 Loans	(*)	(*)	(*)	(*)	-	-	(*)	(*)
28 Fuel Tax: Natural Gas Fuel Taxes Delay	(*)	-	(0.2)	-	(0.1)	-	(0.3)	-
29 Local CST: Freeze Rate Increases Until Jan. 1, 2026	-	-	-	-	-	-	-	-
30 Pari-Mutuel Tax: Refund of pari-mutuel taxes limited to HISA compliance	-	-	(4.5)	(4.5)	-	-	(4.5)	(4.5)
31 Various Taxes: Strong Families Tax Credit Cap Increase	(10.0)	(10.0)	-	-	-	-	(10.0)	(10.0)
32 Various Taxes: Local Tax Referendum	-	-	-	-	-	-	-	-
2023-24	(780.9)	(338.3)	(5.4)	(5.2)	(187.0)	(77.0)	(973.4)	(420.5)

	General Revenue		State Trust Funds		Local/Other		Total	
	Cash	Recur.	Cash	Recur.	Cash	Recur.	Cash	Recur.
Nonrecurring Out-year Impacts								
33 Sales Tax: Energy Star Appliances - 1 Year	(5.7)	-	(*)	-	(1.5)	-	(7.2)	-
34 Sales Tax: Gas Ranges and Cooktops - 1 Year	(0.5)	-	(*)	-	(0.1)	-	(0.6)	-
35 Sales Tax: Distribute Tax Receipts on Equine Products	(27.5)	-	-	-	-	-	(27.5)	-
36 Corp. Inc. Tax: Brownfields Rehabilitation Tax Credit Cap Increase - 5 yrs.	(117.1)	-	-	-	-	-	(117.1)	-
37 Fuel Tax: Natural Gas Fuel Taxes Delay	(0.2)	-	(1.0)	-	(0.3)	-	(1.5)	-
Out Years	(151.0)	-	(1.0)	-	(1.9)	-	(153.9)	-

Tax Package Total	(931.9)	(338.3)	(6.4)	(5.2)	(188.9)	(77.0)	(1,127.3)	(420.5)
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(*) Impact less than \$100,000; (**) Impact is indeterminate; 0/(*) If an impact exists, it will be less than \$100,000.
 (1) Ad valrem tax impacts assume current rates.
 (2) Recurring tax cut total = -\$420.5
 Pure nonrecurring tax cuts = -\$777.7
 -\$1,198.2

(777.7)
(1,198.2)

B. Private Sector Impact:

Taxpayers, both businesses and individuals, will experience significant tax savings.

C. Government Sector Impact:

The Department of Revenue, Department of State, and the Florida Gaming Commission will need to engage in rulemaking and will likely incur implementation costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 220.197, 220.199, 550.09516, and 571.265.

This bill substantially amends the following sections of the Florida Statutes: 125.01, 125.0104, 125.0108, 125.901, 196.081, 196.196, 196.198, 197.319, 199.145, 201.08, 201.21, 202.19, 206.9952, 206.9955, 206.996, 212.055, 212.08, 212.12, 212.20, 213.053, 220.02, 220.13, 220.1845, 220.222, 336.021, 336.025, 376.30781, 402.62, 571.26, and 624.509.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.