

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 107 Impact of Electric Vehicles and Plug-in Hybrid Electric Vehicles on State Revenues and State Trust Funds

**SPONSOR(S):** Transportation & Modals Subcommittee, Esposito

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 28

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Modals Subcommittee	16 Y, 0 N, As CS	Hinshelwood	Hinshelwood
2) Ways & Means Committee			
3) Infrastructure Strategies Committee			

### SUMMARY ANALYSIS

Florida has the second-highest number of registered electric vehicles (EVs) in the country. The combination of increasing market share of EVs and hybrid vehicles as well as more fuel-efficient internal combustion engine vehicles is expected to continue adversely impacting statewide and local fuel tax revenues, which provide funding for transportation expenditures. Over the next 20 years in Florida, the revenue loss due to increased EV market penetration is estimated to range from 5.6 percent to 20 percent, depending on the EV market penetration rate. At the local level, the loss of revenue could impact operations and maintenance of local roadways and public transportation. Currently, the typical Florida driver pays \$283 in motor fuel tax each year for transportation related projects.

Florida does not currently impose additional registration fees on EVs or PHEVs.

The bill requires the Revenue Estimating Conference (REC) to estimate the impact on the General Revenue Fund in fiscal years 2024-2025 and 2025-2026 of sales tax levied on the sale of electricity that is used to charge EVs. The REC must provide this estimate to the Department of Revenue no later than the June 10 preceding the start of the applicable fiscal year. This provision expires June 30, 2026.

Beginning July 2024, the bill directs the Department of Revenue to distribute to the State Transportation Trust Fund (STTF) one-twelfth of the amount estimated by the REC for that state fiscal year. This provision expires June 30, 2026.

In addition, the bill recognizes that the continued adoption of EVs and plug-in hybrid electric vehicles will have significant effects on state tax collections and the STTF. To better understand these effects, the bill requires the Office of Economic and Demographic Research (EDR) to produce a report that estimates the long-term impact on the State Transportation Trust Fund, the impact on sales tax and gross receipts tax revenues expected to result from the continuing adoption of EVs and PHEVs in the state, and the percentage of users that utilize residential charging stations rather than commercial charging stations. The report must also consider federal policies that incentivize or promote EVs and the impact of such policies on the speed of continued adoption of EVs.

EDR must submit the report by January 15, 2025, and the report must be used by the 2025 Legislature to consider potential policy changes needed to address the long-term impact on the STTF.

The Revenue Estimating Conference has not estimated the revenue impacts of this bill. For fiscal years 2024-2025 and 2025-2026, the bill will have a negative impact on General Revenue and an equivalent positive impact on state trust fund revenue.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Electric Vehicles and Revenue Impacts in Florida

Florida has the second-highest number of registered electric vehicles (EVs) in the country.<sup>1</sup> According to the Southern Alliance for Clean Energy, EVs made up nearly 3 percent of all cars sold in Florida from July 2020 to July 2021, and EV charging station deployment grew 54 percent.<sup>2</sup> In that same period, utility investment rose 815 percent, and government funding in Florida topped \$100 million through a combination of state-controlled Volkswagen Settlement Funds and federal Low or No Emission Vehicle Program grants.<sup>3</sup> With the passage of the federal Infrastructure Investment and Jobs Act in 2021, Florida will receive an additional \$198 million over a five-year period from the National Electric Vehicle Infrastructure program to advance Florida's charging capacity for EVs.<sup>4</sup>

The combination of increasing market share of EVs and hybrid vehicles as well as more fuel-efficient internal combustion engine vehicles is expected to continue adversely impacting statewide and local fuel tax revenues.<sup>5</sup> Over the next 20 years in Florida, the revenue loss due to increased EV market penetration is estimated to range from 5.6 percent to 20 percent, depending on the EV market penetration rate.<sup>6</sup> At the local level, the loss of revenue could impact operations and maintenance of local roadways and public transportation.<sup>7</sup>

##### Average Fuel Tax Paid by Florida Drivers

Currently, the typical Florida driver pays \$283 in motor fuel tax each year – \$90 in federal fuel tax, \$123 in state fuel tax, and \$69 in local fuel tax – for transportation related projects.<sup>8</sup> These amounts equate to approximately \$0.024 per mile.<sup>9</sup>

##### Transportation Funding Models for EVs and Plug-In Hybrid Electric Vehicles (PHEVs)

##### *Special Registration Fee*

Currently, 33 states have implemented a registration fee supplement for EVs, and 18 of those states assess a lower fee on PHEVs.<sup>10</sup> These fees are typically in addition to traditional motor vehicle registration fees.<sup>11</sup>

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<sup>1</sup> WUSF Public Media, *Florida, No. 2 in nation for electric cars, about to get a boost to its charger network* (Feb. 13, 2022), <https://wusfnews.wusf.usf.edu/environment/2022-02-13/florida-no-2-in-nation-for-electric-cars-about-to-get-a-boost-to-its-charger-network> (last visited Dec. 4, 2023). See also U.S. Department of Energy, *Electric Vehicle Registrations by State*, <https://afdc.energy.gov/data/10962> (last visited Dec. 4, 2023).

<sup>2</sup> Southern Alliance for Clean Energy, *Florida's Electric Vehicle Market is Ready for Lift Off* (Dec. 8, 2021), <https://cleanenergy.org/blog/floridas-electric-vehicle-market-is-ready-for-lift-off/> (last visited Dec. 4, 2023).

<sup>3</sup> *Id.*

<sup>4</sup> Florida Department of Transportation, *Florida's Electric Vehicle Infrastructure Deployment Plan* (Aug. 2022), [https://www.fhwa.dot.gov/environment/nevi/ev\\_deployment\\_plans/fl\\_nevi\\_plan.pdf](https://www.fhwa.dot.gov/environment/nevi/ev_deployment_plans/fl_nevi_plan.pdf), p. 12 (last visited Dec. 4, 2023).

<sup>5</sup> Motor fuel is subject to state taxation pursuant to ch. 206, F.S. Federal and local option taxes are also levied on motor fuel. Most of the revenue from the fuel sales tax is distributed to the State Transportation Trust Fund, which provides a funding source for the Florida Department of Transportation's 5-year work program.

<sup>6</sup> Florida Department of Transportation, *EV Infrastructure Master Plan* (July 2021), [https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/emergingtechnologies/evprogram/fdotvmp.pdf?sfvrsn=b5888a\\_2](https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/emergingtechnologies/evprogram/fdotvmp.pdf?sfvrsn=b5888a_2), p. 27 (last visited Dec. 4, 2023).

<sup>7</sup> *Id.*

<sup>8</sup> Florida Department of Transportation, *Florida's Transportation Tax Sources: A Primer* (2023), <https://fdotewp1.dot.state.fl.us/FMSupportApps/Documents/prs/Primer.pdf> (last visited Dec. 4, 2023).

<sup>9</sup> *Id.*

<sup>10</sup> National Conference of State Legislatures, *Special Fees on Plug-In Hybrid and Electric Vehicles* (Mar. 27, 2023), <https://www.ncsl.org/energy/special-fees-on-plug-in-hybrid-and-electric-vehicles> (last visited Dec. 4, 2023).

<sup>11</sup> *Id.*

Annual fees for EVs range from \$50 in Colorado, South Dakota, and Hawaii to \$225 in Washington. Fees for PHEVs range from \$48.75 in Iowa, to \$100 in Alabama, Arkansas, Ohio, and West Virginia; Wisconsin imposes a fee of \$160 on all hybrid EVs, not just PHEVs.<sup>12</sup>

Revenue from these fees is most commonly directed toward the state transportation fund, but a few states also use some of the fee revenue to support EV infrastructure or other priorities.<sup>13</sup> Examples of the distribution of these fees include the following:<sup>14</sup>

- Alabama allocates \$50 of its \$200 fee for new EV infrastructure.
- Washington added an additional \$75 fee in 2019 to support charging stations.
- Colorado dedicates \$20 of the \$50 EV fee to the Electric Vehicle Grant Fund to support charging stations.
- Louisiana directs a portion of these revenues to local governments to support local transportation and infrastructure funds.
- Kentucky splits revenues between the road account and the state's general fund.

At least six states (California, Colorado, Indiana, Michigan, Mississippi, and Utah) structure the additional registration fees to grow over time by tying the fees to the consumer price index or another inflation-related metric.<sup>15</sup>

### *Kilowatt Hour (kWh) Excise Tax*

A kWh excise tax provides a means of capturing out-of-state revenue when cars charge at public charging stations.<sup>16</sup> Currently, the following five states impose a per-kWh excise tax on electricity used to charge EVs and PHEVs:

- Beginning January 1, 2025, Georgia requires a tax to be levied on public charging stations at a rate equivalent to that of one gallon of regular grade gasoline, which is \$0.26 per 11 kWh and will be adjusted for increases in the Consumer Price Index and in fuel efficiency.<sup>17</sup>
- Beginning July 2, 2023, Iowa requires an excise tax of \$0.026 per kWh on sales of electricity dispensed at a public charging station.<sup>18</sup>
- Beginning January 1, 2024, Kentucky requires an excise tax of \$0.03 per kWh on EV power distributed by an EV dealer for the purpose of charging EVs.<sup>19</sup> The tax rate will be adjusted annually by the percentage change, up to a maximum 5 percent increase or decrease, in the National Highway Construction Index 2.0.<sup>20</sup>
- Beginning January 1, 2024, public EV charging stations in Oklahoma are subject to a tax of \$0.03 per kWh.<sup>21</sup> Residents may keep their receipts from the charging stations and apply for a refund as a credit when paying state income tax.<sup>22</sup>

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Presentation by Carolyn Kramer Simmons, Senior Director of State Funding Policy, ARTBA, at the at the Georgia Joint Study Committee of Electrification on Transportation (Nov. 2, 2022),

<https://www.youtube.com/watch?v=okiVRxErXlw&t=1430s>, written material available at

[https://www.house.ga.gov/Documents/CommitteeDocuments/2022/Electrification of Transportation/Nov 2/Carolyn Sim mons\\_ARTBA.pdf](https://www.house.ga.gov/Documents/CommitteeDocuments/2022/Electrification%20of%20Transportation/Nov%20Carolyn%20Simmons_ARTBA.pdf) (last visited Dec. 4, 2023).

<sup>17</sup> Repairer Driven News, *Georgia implements EV charging tax, Delaware passes home charging bill* (July 7, 2023), <https://www.repairerdrivennews.com/2023/07/07/georgia-implements-ev-charging-tax-delaware-passes-home-charging-bill/> (last visited Dec. 4, 2023); Georgia Laws 2023, Act 248 (SB 146), <https://gov.georgia.gov/executive-action/legislation/signed-legislation/2023>.

<sup>18</sup> Iowa Department of Revenue, *Electric Fuel Excise Tax*, <https://tax.iowa.gov/electric-fuel-excise-tax> (last visited Dec. 4, 2023).

<sup>19</sup> KRS § 138.477(2).

<sup>20</sup> KRS § 138.477(3).

<sup>21</sup> 68 Okla. Stat. tit. § 6504(A) (2022).

<sup>22</sup> 68 Okla. Stat. tit. § 6510 (2022).

- Pennsylvania currently imposes a charge of \$0.0183 per kWh for electricity used to propel a vehicle on a public highway.<sup>23</sup> The charge is based on converting electricity to the gasoline gallon equivalent and then applying the current oil company franchise tax rate applicable to one gallon of gasoline.<sup>24</sup> However, Pennsylvania is considering moving to a flat annual fee for EVs because the current alternative fuel tax requires EV owners to file monthly statements with the state Department of Revenue and pay a tax on how much electricity their vehicle used, a process which is complicated and which few people are even aware they are required to comply with.<sup>25</sup>

### *Road Usage Charge (RUC)*

A road user charge (RUC) is also known as a miles based user fee (MBUF), vehicle miles traveled (VMT), or pay per mile (PPM).<sup>26</sup> In a RUC system, drivers submit their mileage and fuel consumption to an account manager (a private sector entity) who creates and sends an invoice to the vehicle owner who then pays.<sup>27</sup> The RUC system can be accomplished through a plug-in device in the vehicle, in-vehicle telematics, odometer reading, or a flat fee.<sup>28</sup> The account manager transfers the money collected to the state.<sup>29</sup> The state oversees and audits the account manager.<sup>30</sup> One report found that 5-18 percent of revenue will go to RUC system administrative costs.<sup>31</sup>

Oregon has the longest active RUC system pilot program, which has been around since 2015. Utah started a RUC system in January of 2020. As of July 1, 2022, Virginia is the most recent RUC system, which is open to all fuel-efficient vehicles.<sup>32</sup>

Florida does not currently impose additional registration fees on EVs or PHEVs.

### Taxation of Electricity in Florida

The sale of electric power or energy by an electric utility is subject to the state sales tax at the rate of 4.95 percent,<sup>33</sup> subject to numerous exemptions. The exemptions include sales for use in residential households,<sup>34</sup> sales for certain agricultural purposes,<sup>35</sup> sales for use in operating manufacturing machinery and equipment in a fixed location,<sup>36</sup> and electricity used exclusively at a data center.<sup>37</sup>

State sales and use taxes are distributed pursuant to s. 212.20(6), F.S.<sup>38</sup> in numerous ways, with approximately 89.5 percent being distributed to the General Revenue fund and a further 10.2 percent

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<sup>23</sup> Pennsylvania Department of Revenue, *Alternative Fuels Tax*, <https://www.revenue.pa.gov/TaxTypes/MAFT/AltFuelsTax/Pages/default.aspx> (last visited Dec. 4, 2023); Pennsylvania Department of Revenue, *Alternative Fuels Tax Rates*, <https://www.revenue.pa.gov/Tax%20Rates/Pages/Alternative%20Fuels%20Tax%20Rates.aspx> (last visited Dec. 4, 2023).

<sup>24</sup> Pennsylvania Department of Revenue, *Alternative Fuels Tax*, *supra* note 23.

<sup>25</sup> Government Technology, *Pennsylvania EV Drivers Could Face \$290 Annual Fee* (June 8, 2023), <https://www.govtech.com/fs/pennsylvania-ev-drivers-could-face-290-annual-fee> (last visited Dec. 4, 2023).

<sup>26</sup> Presentation by Patricia Hendren, Executive Director, Eastern Transportation Coalition, at the Georgia Joint Study Committee of Electrification on Transportation (Nov. 2, 2022), <https://www.youtube.com/watch?v=okiVRxErXlw&t=1430s>, written material available at [https://www.house.ga.gov/Documents/CommitteeDocuments/2022/Electrification\\_of\\_Transportation/Nov\\_2/Trish\\_Hendren\\_Eastern\\_Transportation\\_Coalition.pdf](https://www.house.ga.gov/Documents/CommitteeDocuments/2022/Electrification_of_Transportation/Nov_2/Trish_Hendren_Eastern_Transportation_Coalition.pdf) (last visited Dec. 4, 2023).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Carolyn Kramer Simmons, *supra* note 16.

<sup>32</sup> Patricia Hendren, *supra* note 26; Carolyn Kramer Simmons, *supra* note 16.

<sup>33</sup> Section 212.05(1)(e)1.c., F.S.

<sup>34</sup> Section 212.08(7)(j), F.S.

<sup>35</sup> Section 212.08(5)(e), F.S.

<sup>36</sup> Section 212.08(7)(ff), F.S.

<sup>37</sup> Section 212.08(5)(r), F.S.

<sup>38</sup> Certain local option taxes, certain portions of communications services taxes, and certain portions of gross receipts taxes are also distributed pursuant to s. 212.20(6), F.S.

being distributed as revenue sharing with local governments and distributions.<sup>39</sup> The remainder is distributed to various trust funds or specific entities for specific purposes.<sup>40</sup>

Chapter 203, F.S., imposes, at the rate of 2.5 percent, a tax on gross receipts from the sale, delivery, or transportation of electrical power or energy to a retail consumer in Florida.<sup>41</sup> In addition, a rate of 2.6 percent is levied on sales of electricity to non-residential customers not otherwise exempt.<sup>42</sup> All revenue received pursuant to this tax is deposited in the Public Education Capital Outlay and Debt Service (“PECO”) Trust Fund.<sup>43</sup> The use of such funds is limited to paying the principal and interest on bonds to finance capital projects for institutions of higher learning, community colleges, vocational technical schools, or public schools; the cost of any public educational facility capital project; and the cost of maintenance, restoration, and repairs.<sup>44</sup>

## Effect of the Bill

The bill requires the Revenue Estimating Conference (REC) to estimate the impact on the General Revenue Fund in fiscal years 2024-2025 and 2025-2026 of sales tax levied on the sale of electricity that is used to charge EVs. As residential households are exempt from the sales tax on electricity, this estimate will generally represent the sales tax impact of commercial charging stations in Florida. The REC must provide this estimate to the Department of Revenue no later than the June 10 preceding the start of the applicable fiscal year. This provision expires June 30, 2026.

Beginning July 2024, the bill directs the Department of Revenue to distribute to the State Transportation Trust Fund (STTF) one-twelfth of the amount estimated by the REC for the applicable fiscal year to represent the portion of sales tax collected on electricity used to charge EVs that would have gone into the General Revenue Fund. This provision expires June 30, 2026.

In addition, the bill recognizes that the continued adoption of EVs and plug-in hybrid electric vehicles will have significant effects on state tax collections and the STTF. To better understand these effects, the bill requires the Office of Economic and Demographic Research (EDR) to produce a report that estimates the long-term impact on the State Transportation Trust Fund, the impact on sales tax and gross receipts tax revenues expected to result from the continuing adoption of EVs and PHEVs in the state, and the percentage of users that utilize residential charging stations rather than commercial charging stations. The report must also consider federal policies that incentivize or promote EVs and the impact of such policies on the speed of continued adoption of EVs.

EDR must submit the report by January 15, 2025, and the report must be used by the 2025 Legislature to consider potential policy changes needed to address the long-term impact on the STTF. The Department of Transportation and the Department of Revenue must provide assistance to EDR in producing the report.

The bill defines the terms “electric vehicle” and “plug-in-hybrid electric vehicle” for purposes of the EDR report:

- "Electric vehicle" means a motor vehicle that is solely powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.
- "Plug-in hybrid electric vehicle" means a motor vehicle equipped to be propelled by an internal combustion engine and an electric motor that draws current from rechargeable storage

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<sup>39</sup> These estimates are based on the most recent forecast for Fiscal Year 2024-25, as reflected in the Florida Tax Handbook on page 163, available online at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited December 13, 2023).

<sup>40</sup> These currently include distributions to the State Transportation Trust Fund, the Florida Agricultural Promotional Campaign Trust Fund, the Public Employees Relations Commission Trust Fund, and the Unemployment Compensation Trust Fund, as well as distributions to certain local governments through the emergency distribution program in s. 218.65, F.S., and to certain sports franchises.

<sup>41</sup> Section 203.01(1)(b)1., F.S.

<sup>42</sup> Section 203.01(1)(b)4., F.S.

<sup>43</sup> Section 203.01(1)(c)2., F.S., implementing Art. XII, § (9)(a)(2), Fla. Const.

<sup>44</sup> Art. XII, § 9(a)(2)c., Fla. Const.

batteries, fuel cells, or other sources of electrical current that are recharged by an energy source external to the motor vehicle.

**B. SECTION DIRECTORY:**

- Section 1** Amends s. 216.137, F.S., requiring the REC to adopt an estimate of certain sales tax collections for specified state fiscal years.
- Section 2** Amends s. 212.20, F.S., requiring DOR to make monthly distributions to the STTF.
- Section 3** Requiring EDR to provide a report to the Governor and Legislature.
- Section 4** Provides an effective date of upon becoming a law.

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

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

1. Revenues:

The Revenue Estimating Conference has not estimated the revenue impacts of this bill. For fiscal years 2024-2025 and 2025-2026, the bill will have a negative impact on General Revenue and an equivalent positive impact on state trust fund revenue.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill does not appear to require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On January 10, 2024, the Transportation & Modals Subcommittee adopted a Proposed Committee Substitute (PCS) and reported the bill favorably as a committee substitute. The PCS:

- Removes the new fees on EVs and PHEVs;
- For two fiscal years, requires the REC to estimate the impact on the General Revenue Fund from the sales tax levied from charging EVs and directs the Department of Revenue to distribute such funds to the STTF; and
- Requires EDR to prepare a report.

This analysis is drafted to the committee substitute as approved by the Transportation & Modals Subcommittee.