

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 7073      PCB WMC 24-05    Taxation  
**SPONSOR(S):** Appropriations Committee, Ways & Means Committee, McClain  
**TIED BILLS:**                    **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee	16 Y, 6 N	Rexford	Aldridge
1) Appropriations Committee	25 Y, 4 N, As CS	Trexler	Pridgeon

**SUMMARY ANALYSIS**

The bill provides for the following tax-related provisions designed to benefit both families and businesses.

For sales taxes, the bill:

- Creates a 14-day “back-to-school” tax holiday, in July and August 2024, for certain clothing, school supplies, learning aids and puzzles, and personal computers; two 14-day “disaster preparedness” holidays in June and parts of August and September of 2024 for specified disaster preparedness supplies for families and their pets; a “Freedom Month” tax holiday for July 2024 for specified recreational items and activities; and a seven-day “Tool Time” tax holiday in September for tools and equipment needed in skilled trades;
- Decreases the business rent tax rate to 1.25 percent for one year;
- Expands the ability for a leasing company to pay tax up front on the purchase of a motor vehicle, instead of collecting and remitting tax on the subsequent long-term lease or rental of the vehicle;
- Requires all new local discretionary sales surtax ordinances to be approved by referendum at least once every 10 years; and
- Allows Duval County to levy an indigent care sales surtax if approved by voters.

For corporate income tax, the bill:

- Adopts the Internal Revenue Code in effect on January 1, 2024, to conform with federal provisions; and
- Creates a corporate income tax credit for businesses that hire persons with disabilities.

For property taxes, the bill:

- Expands the ad valorem tax benefits for renewable energy source devices to include facilities used to capture and convert biogas to renewable natural gas; and
- Clarifies that for tangible personal property constructed by an electric utility, construction work in progress is not deemed substantially completed unless all permits/approvals required for commercial operation have been received or approved.

The bill also limits all new tourist development taxes (TDTs) to 6 years, requires existing TDTs to be approved by voters by July 1, 2029, to continue (with exceptions), allows certain counties designated as an area of critical state concern to use specified local tax surpluses to provide affordable housing for workers; provides automatic filing extensions for sales tax dealers and corporate income taxpayers in certain emergencies; increases the annual cap of the Strong Families Tax Credit Program to \$40 million; limits documentary stamp tax assessments for reverse mortgages; increases the percentage of revenue collected from the Sales Tax Collection Enforcement Diversion Program that goes to the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance (JP-PAS) Program; distributes \$27.5 million for two additional fiscal years to promote the breeding and racing of horses in Florida; creates an insurance premium deduction for certain homestead property owners and creates a corresponding insurance premium tax credit for certain insurers; and makes technical and clarifying updates.

The total state and local government impact of the bill in Fiscal Year 2024-25 is -\$619.6 million (-\$31.9 million recurring). See Fiscal Comments section for details.

The bill is effective July 1, 2024, except as otherwise provided.

**FULL ANALYSIS**

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

STORAGE NAME: h7073a.APC

DATE: 2/21/2024

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Sales Tax**

Florida's sales and use tax is a 6 percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals,<sup>1</sup> unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's General Revenue (projected 75.2 percent for Fiscal Year 2023-24)<sup>2</sup> and is administered by the Department of Revenue (DOR) under ch. 212, F.S.

Authorized in 1982, the Local Government Half-Cent Sales Tax Program generates the largest amount of revenue for local governments among the state-shared revenue sources currently authorized by the Legislature.<sup>3</sup> It distributes a portion of state sales tax revenue via three separate distributions to eligible county or municipal governments. Additionally, the program distributes a portion of communications services tax revenue to eligible local governments. Allocation formulas serve as the basis for these separate distributions. The program's primary purpose is to provide relief from ad valorem and utility taxes in addition to providing counties and municipalities with revenues for local programs.<sup>4</sup>

#### **Sales Tax Holidays**

Since 1998, the Legislature has enacted more than two dozen temporary periods (commonly called "sales tax holidays") during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

#### ***Back to School Sales Tax Holiday***

##### Current Situation

Florida has enacted a "back-to-school" sales tax holiday twenty-two times since 1998. The length of the exemption periods has varied from three to fourteen days. The type and value of exempt items has also varied. The following table describes the history of back-to-school sales tax holidays in Florida.

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<sup>1</sup> Commercial real estate rentals are subject to a 4.5 percent sales tax pursuant to s. 212.031(1)(c), F.S.

<sup>2</sup> The Office of Economic and Demographic Research, *2023 Florida Tax Handbook*, p. 16, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited Feb. 10, 2024).

<sup>3</sup> Office of Economic and Demographic Research, *Florida Local Government Financial Information Handbook 2023*, p. 51, available at <http://edr.state.fl.us/Content/local-government/reports/lqfih23.pdf> (last visited Feb. 10, 2024).

<sup>4</sup> *Id.*

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
July 24-August 6, 2023; Jan 1-14, 2024	14 days each	\$100 or less	\$100 or less	\$30 (Learning Aids/Puzzles)	\$1,500 or less	\$50 or less

### Effect of Proposed Changes

The bill provides for a sales tax holiday from July 29, 2024, through August 11, 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 during the holiday, 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.”

Additionally, 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, calculators, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted.

The “back-to-school” sales tax holiday applies at the option of the dealer if less than 5 percent of the dealer’s gross sales of tangible personal property in the prior calendar year are comprised of items that are exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by July 15, 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.

### ***Disaster Preparedness Sales Tax Holiday***

#### Current Situation

The Florida Office of Insurance Regulation estimated insured losses of over \$309 million due to Hurricane Idalia in 2023,<sup>5</sup> \$19.6 billion due to Hurricanes Ian and Nicole in 2022,<sup>6</sup> \$9.1 billion due to Hurricane Michael in 2018,<sup>7</sup> \$20.7 billion due to Hurricane Irma in 2017,<sup>8</sup> and \$1.3 billion due to Hurricanes Hermine and Matthew in 2016.<sup>9</sup>

The Florida Division of Emergency Management recommends having a disaster supply kit with items such as a battery-operated radio, flashlight, batteries, pet care items, and first-aid kit.<sup>10</sup>

Since 2006, the Legislature has enacted ten sales tax holidays related to disaster preparedness. During these holidays, the following items were exempted as indicated:

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<sup>5</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/home/idalia> (last visited Feb. 4, 2024).

<sup>6</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://www.floir.com/home/ian> (\$19.3 billion) and <https://www.floir.com/home/hurricane-nicole> (\$253 million) (last visited Feb. 4, 2024).

<sup>7</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/Office/HurricaneSeason/HurricaneMichaelClaimsData.aspx> (last visited Feb. 4, 2024).

<sup>8</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://www.floir.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx> (last visited Feb. 4, 2024).

<sup>9</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/Office/HurricaneSeason/HurricaneMatthewClaimsData.aspx> and <https://floir.com/Office/HurricaneSeason/HurricaneHermineClaimsData.aspx> (last visited Feb. 4, 2024).

<sup>10</sup> Florida Division of Emergency Management, *Disaster Supply Kit Checklist*, available at: <https://www.floridadisaster.org/planprepare/hurricane-supply-checklist/> (last visited Feb. 4, 2024).

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 <sup>11</sup>	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 <sup>12</sup>	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 <sup>13</sup>	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 <sup>14</sup>	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 <sup>15</sup>	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
May 27 – June 9, 2023; Aug. 26 – Sept. 8, 2023 <sup>16</sup>	14 days each	\$20 or less	\$40 or less	\$50 or less	\$50 or less	\$60 or less	\$50 or less	\$100 or less	\$3000 or less

### Effect of Proposed Changes

The bill provides for sales tax holidays from June 1, 2024, through June 14, 2024, and from August 24, 2024, through September 6, 2024, for specified items related to disaster preparedness. During the sales tax 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;

<sup>11</sup> This holiday also included cell phone batteries (\$60 or less), cell phone charger (\$40 or less), storm shutters (\$200 or less), carbon monoxide detectors (\$75 or less), and any combination of items exempt under the holiday or existing law which were sold together for \$75 or less.

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

<sup>13</sup> This holiday included an exemption for first aid kits selling for \$30 or less; however, these items are always exempt under s. 212.08(2)(a), F.S.; see form DR-46NT, *Nontaxable Medical Items and General Grocery List*, available at: [http://floridarevenue.com/Forms\\_library/current/dr46nt.pdf](http://floridarevenue.com/Forms_library/current/dr46nt.pdf) (last visited Feb. 4, 2024).

<sup>14</sup> This holiday also included portable power banks selling for \$60 or less.

<sup>15</sup> This holiday also 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).

<sup>16</sup> This holiday also included portable power banks selling for \$60 or less, smoke detectors, smoke alarms, fire extinguishers, or carbon monoxide detectors selling for \$70 or less; specified items necessary for the evacuation of household pets, with item thresholds ranging from \$10 (wet pet food) to \$100 (portable kennels or carriers); and common household consumable items for \$30 or less, such as toilet paper, paper towels, and dish soap.

- 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; and
- Supplies necessary for the evacuation of household pets. For purposes of this exemption, necessary supplies are the non-commercial purchase of:
  - Bags of dry dog or cat food weighing 50 or fewer pounds with a sales price of \$100 or less per bag;
  - Cans or pouches of wet dog or cat food selling for \$10 or less per can or pouch or the equivalent if sold in a box or case;
  - Over-the-counter pet medications selling for \$100 or less;
  - Portable kennels or pet carriers selling for \$100 or less;
  - Manual can openers selling for \$15 or less;
  - Leashes, collars, and muzzles selling for \$20 or less;
  - Collapsible or travel-size food or water bowls selling for \$15 or less;
  - Cat litter weighing 25 or fewer pounds and selling for \$25 or less;
  - Cat litter pans selling for \$15 or less;
  - Pet waste disposal bags selling for \$15 or less;
  - Pet pads selling for \$20 or less per box;
  - Hamster or rabbit substrate selling for \$15 or less; and
  - Pet beds selling for \$40 or less.

### ***Freedom Month Sales Tax Holiday***

#### Current Situation

In 2021 and 2022, the Legislature enacted a seven-day sales tax holiday during the week surrounding the Fourth of July on specified recreational items and activities. In 2023, the Legislature enacted a 3-month long summer sales tax holiday on similar specified recreational items and activities.

#### Effect of Proposed Changes

The bill provides for a one-month sales tax holiday from July 1, 2024, through July 31, 2024, for specified admissions and items related to recreational activities. During the sales tax holiday, the following admissions, if purchased during this month, are exempt from the state sales tax and county discretionary sales surtaxes:<sup>17</sup>

- A live music event scheduled to be held between July 1, 2024, and December 31, 2024;
- A live sporting event scheduled to be held between July 1, 2024, and December 31, 2024;
- A movie shown in a movie theater between July 1, 2024, and December 31, 2024;
- Entry to a museum, including annual passes;
- Entry to state parks, including annual passes;
- Entry to a ballet, play, or musical theatre performance scheduled to be held between July 1, 2024, and December 31, 2024;
- Season tickets to ballet, play, music events, or musical theatre performances;
- Entry to a fair, festival, or cultural event scheduled to be held between July 1, 2024, and December 31, 2024; and
- Use of or access to gyms and physical fitness facilities between July 1, 2024, and December 31, 2024.

During the sales tax holiday, the following items are exempt from the state sales tax and county

<sup>17</sup> 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.

discretionary sales surtax:

- Boating and Water Activity Supplies
  - Life 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 Supplies<sup>18</sup>
  - 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.
- 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.

### ***Skilled Worker “Tool Time” Sales Tax Holiday***

#### Current Situation

According to the Florida Department of Commerce, a number of skilled trade occupations are in high demand.<sup>19</sup> The cost of educational materials, tools, and other items can be a barrier to education, training, and employment for skilled trade workers.

In 2022 and 2023, the Legislature enacted a seven-day sales tax holiday that included exemptions on tools used by skilled trade workers, such as carpenters, electricians, plumbers, welders, pipefitters, masons, painters, heating and air conditioning technicians, and other service technicians.

#### Effect of Proposed Changes

The bill provides a seven-day sales tax holiday from September 1, 2024, through September 7, 2024, 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:

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<sup>18</sup> The exemption for fishing supplies does not apply to supplies used for commercial fishing purposes.

<sup>19</sup> Regional Demand Occupations List, available at: [https://lmsresources.labormarketinfo.com/library/rdol/rdol\\_all\\_2324.xlsx](https://lmsresources.labormarketinfo.com/library/rdol/rdol_all_2324.xlsx) (last visited Feb. 11, 2024).

- 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 four sales tax holidays listed above do not apply to the following sales:

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

## **Sales Tax Exemption on Certain Motor Vehicles**

### Current Situation

#### *Sales and Use Tax on Motor Vehicle Leases*

The lease or rental of tangible personal property, including vehicles, is subject to state and local sales and use tax.<sup>20</sup> When a motor vehicle is leased or rented in Florida, the entire amount of such rental is taxable at the rate of 6 percent<sup>21</sup> of the gross proceeds derived from the lease or rental.<sup>22</sup> A “lease or rental” is defined as the leasing or renting of tangible personal property and the possession or use of property by the lessee or renter for a consideration, without transfer of title.<sup>23</sup> The lessor is required to be registered as a dealer and to collect tax on the total amount of the lease or rental charges from the lessee.<sup>24</sup> The lessor normally does not pay tax on the purchase of the vehicle, as that purchase is considered a sale for resale, and instead tax is normally collected and remitted on each lease payment.<sup>25</sup>

#### *Long Term Leases of Commercial Motor Vehicles*

<sup>20</sup> S. 212.05(1), F.S.

<sup>21</sup> Discretionary county sales surtax, if any, is also owed if the 6 percent Florida state sales tax applies. See s. 212.054, F.S.

<sup>22</sup> S. 212.05(1)(c), F.S.

<sup>23</sup> S. 212.02(10)(g), F.S.

<sup>24</sup> Rule 12A-1.007(13)(a)1, F.A.C.

<sup>25</sup> Rule 12A-1.007(13)(a)2., F.A.C.



There is an exception to the general rule that sales tax is not paid on the purchase of the car and is instead due and collected on lease or rental payments. The exception is for commercial motor vehicles in certain long-term leases. For the exemption to apply, the lease or rental must be for a period of at least 12 months, and the lessor must have paid sales tax on the vehicle when it was purchased.<sup>26</sup> In addition, the lessor must be an established business, or part of or related to an established business, that leases or rents commercial motor vehicles. Commercial motor vehicles are defined as any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, if the vehicle has a gross vehicle weight rating of 10,000 pounds or more.<sup>27</sup>

### Effect of Proposed Changes

The bill expands the existing ability for a leasing company to pay tax up front on the purchase of a motor vehicle, instead of collecting and remitting tax on the subsequent long-term lease or rental of the vehicle, to apply to any motor vehicle as long as it is leased for use in the lessee's trade or business. "Motor vehicle" is defined as a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, electric bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device swamp buggy, or moped.<sup>28</sup>

### Business Rent Tax Rate Reduction

#### Current Situation

Since 1969, Florida has imposed a sales tax on the total rent charged under a commercial lease of real property.<sup>29</sup> Sales tax is due at the rate of 4.5 percent on the total rent paid for the right to use or occupy commercial real property. Local option sales surtaxes can also apply.<sup>30</sup> If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.

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

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

In 2021, the Legislature approved a reduction to the business rent tax from 5.5 percent to 2 percent, effective the first day of the second month after the Office of Economic and Demographic Research notifies the Department of Revenue that the Unemployment Compensation Trust Fund has reached its pre-pandemic balance<sup>31</sup>. This notification is expected to happen in April 2024, resulting in the business rent tax rate lowering to 2 percent beginning June 1, 2024.<sup>32</sup>

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

### Effect of Proposed Changes

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<sup>26</sup> S. 212.05(1)(c)3., F.S.

<sup>27</sup> S. 316.003(14)(a), F.S.

<sup>28</sup> S. 316.003(46), F.S.

<sup>29</sup> Ch. 1969-222, L.O.F.

<sup>30</sup> S. 212.031, F.S., and Rule 12A-1.070, F.A.C.

<sup>31</sup> See s. 14, ch. 2021-2, as amended by s. 46, ch. 2021-31, L.O.F.

<sup>32</sup> The Office of Economic & Demographic Research, *Unemployment Compensation Trust Fund Forecast*, available at <http://edr.state.fl.us/Content/conferences/unemployment-compensation-trust-fund/January2024ForecastSummary.pdf> (last visited Feb. 10, 2024).

The bill reduces the business rent tax rate for one year to 1.25 percent, from July 1, 2024, through June 30, 2025.

## **Local Discretionary Sales Surtaxes**

Counties have been granted limited authority to levy a discretionary sales surtaxes for specific purposes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.<sup>33</sup> A discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of 6 percent. The surtax does not apply to the sales price above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service, rentals of real property, or transient rentals. Rates range from 0.5 percent to 1.5 percent, and are levied by 65 of the 67 counties.<sup>34</sup> Approved purposes include:

- a. Operating a transportation system in a charter county;<sup>35</sup>
- b. Financing local government infrastructure projects;<sup>36</sup>
- c. Providing additional revenue for specified small counties;<sup>37</sup>
- d. Providing medical care for indigent persons;<sup>38</sup>
- e. Funding trauma centers;<sup>39</sup>
- f. Operating, maintaining, and administering a county public general hospital;<sup>40</sup>
- g. Constructing and renovating schools;<sup>41</sup>
- h. Providing emergency fire rescue services and facilities; and<sup>42</sup>
- i. Funding pension liability shortfalls.<sup>43</sup>

## **Discretionary Sales Surtax Referendums**

### Current Situation

Most local discretionary sales surtaxes may only be approved by referendum, while some may be approved by a vote of the county commission.<sup>44</sup> Some of the surtaxes have set periods of time that they can be enacted for before requiring reenactment, others have no such specified time limit.

The Florida Election Code provides the general requirements for a referendum.<sup>45</sup> The question presented to voters must contain a ballot summary with clear and unambiguous language, such that a “yes” or “no” vote on the measure indicates approval or rejection, respectively.<sup>46</sup> The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.<sup>47</sup> The ballot summary

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<sup>33</sup> The tax rates, duration of the surtax, method of imposition, and proceeds uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

<sup>34</sup> Discretionary Sales Surtax Information for Calendar Year 2024, Form DR-15DSS, available at [https://floridarevenue.com/Forms\\_library/current/dr15dss.pdf](https://floridarevenue.com/Forms_library/current/dr15dss.pdf) (last visited January 25, 2024).

<sup>35</sup> S. 212.055(1), F.S.

<sup>36</sup> S. 212.055(2), F.S.

<sup>37</sup> S. 212.055(3), F.S. Note that the small county surtax may be levied by extraordinary vote of the county governing board if the proceeds are to be expended only for operating purposes.

<sup>38</sup> S. 212.055(4)(a), F.S. (for counties with more than 800,000 residents); s. 212.055(7), F.S. (for counties with less than 800,000 residents).

<sup>39</sup> S. 212.055(4)(b), F.S.

<sup>40</sup> S. 212.055(5), F.S.

<sup>41</sup> S. 212.055(6), F.S.

<sup>42</sup> S. 212.055(8), F.S.

<sup>43</sup> S. 212.055(9), F.S.

<sup>44</sup> See generally s. 212.055, F.S.; but see s. 212.055(3), F.S. (small county surtax may be approved by extraordinary vote of the county commission as long as surtax revenues are not used for servicing bond indebtedness), s. 212.055(4), F.S. (indigent care and trauma center surtax may be approved by extraordinary vote of the county commission), and s. 212.055(5), F.S. (county public hospital surtax may be approved by extraordinary vote of the county commission).

<sup>45</sup> S. 101.161, F.S.

<sup>46</sup> S. 101.161(1), F.S.

<sup>47</sup> *Id.*

and title must be included in the resolution or ordinance calling for the referendum.<sup>48</sup> For some discretionary sales surtaxes, the form of the ballot question is specified by statute.<sup>49</sup>

Five types of elections exist under the Florida Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.<sup>50</sup> Historically, voter turnout during a general election is higher than during other elections.<sup>51</sup> A referendum to adopt, amend, or reenact a local government discretionary sales surtax under must be held at a general election. A referendum to reenact an expiring surtax must be held at a general election occurring within the 48-month period immediately preceding the effective date of the reenacted surtax. Such a referendum may appear on the ballot only once within the 48-month period.<sup>52</sup>

### Effect of Proposed Changes

The bill requires that a referendum be held in order to enact, reenact, extend, or amend any discretionary sales surtax. The bill also establishes a 10-year maximum time limit for all new surtax ordinances, except for the .25 percent trauma center surtax that may be levied for counties with a population of less than 800,000 residents.<sup>53</sup> The bill retains the existing four-year limitation for that surtax.

## **Indigent Care and Trauma Center Surtax**

### Current Situation

Section 212.055(4)(a), F.S., authorizes certain counties with a total population of at least 800,000 to levy an Indigent Care and Trauma Center surtax not to exceed 0.5 percent. However, counties consolidated with one or more municipalities (Duval County) and counties authorized to levy a county public hospital surtax (Miami-Dade County) are not authorized to levy the Indigent Care and Trauma Center surtax. The proceeds of the surtax must be used to fund health care services, including but not limited to, primary care, preventative care, and hospital care for indigent and medically needy poor<sup>54</sup> persons, as well as Level I trauma center services.<sup>55</sup> This tax is imposed by ordinance approved by an extraordinary vote of the governing body or conditioned upon approval by referendum.<sup>56</sup>

### Effect of Proposed Changes

The bill removes current statutory language excluding counties consolidated with one or more municipalities<sup>57</sup> from the authority to levy the surtax. In addition, the bill removes the ability of a county to authorize levy of the surtax by an extraordinary vote of the governing body of the county and instead requires voters to approve such levy.

## **Tourist Development Taxes**

The Local Option Tourist Development Act<sup>58</sup> authorizes counties to levy five separate taxes on transient rental<sup>59</sup> transactions (tourist development taxes or TDTs).

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<sup>48</sup> *Id.*

<sup>49</sup> See s. 212.055(4)(b)1., F.S.

<sup>50</sup> S. 97.021(13), F.S.

<sup>51</sup> Department of State, Division of Elections, Data and Statistics, Election Data, Voter Turnout, available at: <http://dos.myflorida.com/elections/data-statistics/elections-data/voter-turnout/> (last viewed Feb. 7, 2024).

<sup>52</sup> S. 212.055(10), F.S.

<sup>53</sup> S. 212.055(4)(b)4., F.S.

<sup>54</sup> Medically needy poor are persons having "insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; or not being eligible for any other state or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage." Section 212.055(4)(a)4.b., F.S.

<sup>55</sup> S. 212.055(4)(a)3., F.S.

<sup>56</sup> S. 212.055(4)(a)1., F.S.

<sup>57</sup> Currently this is only Duval County.

<sup>58</sup> S. 125.0104, F.S.

<sup>59</sup> S. 125.0104(3)(a)(1), F.S. considers "transient rental" to be the rental or lease of any accommodation for a term of six months or less.

## ***TDT Referenda***

### Current Situation

Prior to the authorization of any TDTs, the levy must be approved by a countywide referendum held at a general election<sup>60</sup> and approved by a majority of the electors voting in the county.<sup>61</sup> A referendum to reenact an expiring TDT must be held at a general election occurring within the 48-month period immediately preceding the effective date of the reenacted tax and the referendum may only appear on the ballot once with the 48-month period.

Each county proposing to levy the original 1 or 2 percent tax must adopt an ordinance for the levy and imposition of the tax,<sup>62</sup> which must include a plan for tourist development prepared by the tourist development council.<sup>63</sup> The plan for tourist development must include the anticipated net tax revenue to be derived by the county for the two years following the tax levy, as well as a list of the proposed uses of the tax and the approximate cost for each project or use.<sup>64</sup> The plan for tourist development may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.<sup>65</sup>

Depending on a county's eligibility to levy such taxes, the maximum potential tax rate varies:

- The original TDT may be levied at the rate of 1 or 2 percent.<sup>66</sup>
- An additional 1 percent tax may be levied by counties who have previously levied the original TDT at the 1 or 2 percent rate for at least three years.<sup>67</sup>
- A high tourism impact tax may be levied at an additional 1 percent.<sup>68</sup>
- A professional sports franchise facility tax may be levied up to an additional 1 percent.<sup>69</sup>
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.<sup>70</sup>

### Effect of Proposed Changes

The bill provides that ordinances that levy and impose a TDT expire six years after the date the ordinance is approved in a referendum, but may be renewed for a subsequent period of up to six years if approved in a referendum. Further, any TDT in effect on June 30, 2024, must be renewed by an ordinance approved in a referendum on or before July 1, 2029, to remain in effect. In order to avoid impairment of existing local debt obligations, the bill provides exceptions for current levies if such levies have been pledged for debt service.

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<sup>60</sup> See generally s. 125.0104, F.S.

<sup>61</sup> *Id.*

<sup>62</sup> S. 125.0104(4)(a), F.S.

<sup>63</sup> S. 125.0104(4), F.S.

<sup>64</sup> See s. 125.0104(4), F.S.

<sup>65</sup> See s. 125.0104(4), F.S. The provisions found in s. 125.0104(4)(a)-(d), F.S., do not apply to the high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.

<sup>66</sup> S. 125.0104(3)(c), F.S. All sixty-seven of Florida's counties are eligible to levy this tax, but only sixty-two counties have done so, all at a rate of 2 percent. Office of Economic & Demographic Research (EDR), *County Tax Rates: CY 2007-2024*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm> (last visited February 10, 2024). These counties are estimated to realize \$709 million in revenue from these taxes in the 2023-24 fiscal year. EDR, *2023 Local Government Financial Information Handbook* (January 2024), p. 259, <http://edr.state.fl.us/Content/local-government/reports/lqfih23.pdf> (last visited February 10, 2024).

<sup>67</sup> S. 125.0104(3)(d), F.S. Fifty-six of the eligible fifty-nine counties levy this tax, with an estimated 2023-24 state fiscal year collection of \$291 million in revenue. EDR, *2023 Local Government Financial Information Handbook* (January 2024), p. 263, <http://edr.state.fl.us/Content/local-government/reports/lqfih23.pdf> (last visited February 10, 2024).

<sup>68</sup> S. 125.0104(3)(m), F.S. Ten of the fourteen eligible counties levy this tax, with an estimated 2023-24 state fiscal year collection of \$201 million in revenue. *Id.* at p. 269.

<sup>69</sup> S. 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and convention centers and to promote and advertise tourism. Forty-six of the sixty-seven eligible counties levy this additional tax, with an estimated 2023-24 state fiscal year collection of \$330 million in revenue. *Id.* at p. 267.

<sup>70</sup> S. 125.0104(3)(n), F.S. Thirty-six of sixty-five eligible counties levy the additional professional sports franchise facility tax, with an estimated 2023-24 state fiscal year collection of \$252 million in revenue. *Id.* at p. 273.

## ***TDT Transfer in Areas of Critical State Concern***

### Current Situation

#### *Tourist Development Tax Uses*

Current law authorizes counties to levy and spend TDTs as a mechanism for funding a variety of tourist-related uses, including tourism promotion, financing and constructing of public facilities needed to increase tourist-related business activities in the county, beach restoration and maintenance projects, convention centers, and professional sports franchise facilities.<sup>71</sup> Such uses are tied to the specific TDT being levied.

#### *Tourist Impact Tax*

In addition to tourist development tax, any county that has created a land authority may levy a tourist impact tax of 1 percent on all transient rental facilities within the county located in areas designated as an area of critical state concern.<sup>72</sup> If more than 50 percent of the land area of the county is located in an area of critical state concern, the tax may be levied countywide. The proceeds of the tax are used to purchase property in the area of critical state concern and to offset the loss of ad valorem taxes due to those land acquisitions.<sup>73</sup> Currently, Monroe County is the only county eligible to levy this tax.<sup>74</sup>

### Effect of Proposed Changes

The bill provides for a county that has been designated as an area of critical state concern that levies a tourist development tax and a tourist impact tax to use its accumulated surplus from those taxes collected through September 30, 2024, for the purpose of providing affordable housing for employees of tourism-related businesses in the county. Any housing financed with funds from this surplus must be used as affordable housing for a minimum of 99 years.

## **Local Food and Beverage Tax - Votes Needed in Referendum**

### Current Situation

In 1967, Florida authorized the municipal resort tax.<sup>75</sup> The law authorized cities and towns meeting certain population requirements located within counties also meeting certain population requirements to levy the tax.<sup>76</sup> The tax could be levied on rentals of hotel rooms and similar accommodations, and it could also be levied on sales of food and certain beverages.<sup>77</sup>

The municipal resort tax continues to be levied today in the cities of Bal Harbour, Surfside, and Miami Beach, all of which are located within Miami-Dade County.

Florida has since authorized Miami Dade County to levy the local option food and beverage tax.<sup>78</sup> The local option food and beverage tax consists of two taxes: a 2 percent tax on the sale of food, beverages, and alcoholic beverages sold in hotels and motels, and a 1 percent tax on the sale of food, beverages, and alcoholic beverages sold at an establishment licensed by the state to sell alcoholic beverages on site.<sup>79</sup>

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<sup>71</sup> S. 125.0104, F.S.

<sup>72</sup> S. 125.0108, F.S.

<sup>73</sup> S. 125.0108(3), F.S.

<sup>74</sup> Office of Economic and Demographic Research, *2023 Florida Tax Handbook*, 306 <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited Feb. 10, 2024).

<sup>75</sup> Ch. 67-930, L.O.F.

<sup>76</sup> S. 1, ch. 67-930, L.O.F.

<sup>77</sup> S. 1, ch. 67-930, L.O.F.

<sup>78</sup> S. 212.0306, F.S.

<sup>79</sup> S. 212.0306(1), F.S.

In 2023, the Legislature authorized the imposition of the 1 percent local option food and beverage tax in a city or town that levies the municipal resort tax if the levy is approved by referendum in the city or town at a general election.<sup>80</sup>

### Effect of Proposed Changes

The bill makes a technical change to clarify that in a referendum to adopt a 1 percent local option food and beverage tax in a city or town that levies the municipal resort tax, the ordinance must pass by a majority vote of the voters voting in the election, rather than by a majority of the registered voters.

## **Insurance Premium Tax**

### Current Situation

Florida imposes a 1.75 percent tax on most Florida insurance premiums.<sup>81</sup> Insurance premium taxes are paid by insurance companies under ch. 624, F.S., and are remitted to the DOR. These revenues are distributed to General Revenue with additional distributions to the Insurance Regulatory Trust Fund, the Police & Firefighters Premium Tax Trust Fund, and the Emergency Management Preparedness & Assistance Trust Fund. Net collections of insurance premium taxes are forecast to be \$1.37 billion in Fiscal Year 2023-24 with distributions to General Revenue of \$987.5 million.<sup>82</sup>

### *Insurance Premium Tax Credits*

Insurance policies on residential dwellings are subject to the insurance premium tax. Current law allows for credits for payments of several taxes against the insurance premium tax, including payments of corporate income taxes<sup>83</sup> and adjustments for payments of the firefighter<sup>84</sup> and municipal police<sup>85</sup> trust funds excise taxes.<sup>86</sup>

Current law also provides a credit limitation.<sup>87</sup> The total of the credit granted for the corporate income taxes paid by the insurer and the credit granted to insurers for employee salaries<sup>88</sup> may not exceed 65 percent of the insurance premium tax<sup>89</sup> after deducting firefighter and municipal police trust funds excise tax payments and any assessments related to administration of workers' compensation.<sup>90</sup>

### Effect of Proposed Changes

The bill requires insurers to give homestead property owners a deduction on their residential property insurance premiums in the amount of 1.75 percent of the policyholder's total premium. This applies to policies with coverage for a 12-month period and effective after October 1, 2024, and before September 30, 2025. The deduction amount must appear separately on the policy's declaration page. To establish whether or not a property is a homestead property, the insurer must use the preliminary or final tax roll, whichever is more current, that is available through the DOR's website.

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<sup>80</sup> S. 21, ch. 2023-157, L.O.F.

<sup>81</sup> S. 624.509, F.S. (Different tax rates apply to wet marine and transportation insurance, self-insurance, and annuity premiums.)

<sup>82</sup> *General Revenue Consensus Estimating Conference Comparison Report*, p. 34, <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited Feb. 19, 2024).

<sup>83</sup> Ch. 220, F.S.

<sup>84</sup> S. 175.141, F.S. Additionally, s. 175.101, F.S., allows for a 1.85% excise tax on property insurance premiums if levied by a municipality or special fire control district for pension benefits to firefighters.

<sup>85</sup> S. 185.12, F.S. Additionally, s. 185.08, F.S., allows for a 0.85% excise tax on casualty insurance premiums if levied by a municipality for pension benefits to police officers.

<sup>86</sup> The Firefighter and Municipal Police Trust Funds Excise Tax provides funding for pension plans established for firefighters and police officers under Chapters 175 and 185, Florida Statutes. The Department of Revenue collects the tax from insurance companies and transfers funds to the Police and Firefighters' Premium Tax Trust Fund at the Division of Retirement. See Department of Management Services, *Overview, available at* [https://www.dms.myflorida.com/workforce\\_operations/retirement/local\\_retirement\\_plans/municipal\\_police\\_and\\_fire\\_plans/overview](https://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans/overview) (last visited Feb. 17, 2024).

<sup>87</sup> S. 624.509(6), F.S.

<sup>88</sup> S. 624.509(5), F.S.

<sup>89</sup> Due under s. 624.509(1), F.S.

<sup>90</sup> S. 440.51, F.S.

The bill also allows a policyholder entitled to the deduction who did not receive a deduction to apply to his or her insurer for a refund in the amount of the deduction to which they were entitled by providing evidence that the property in question was a homestead property.

The bill creates a tax credit that can be used against an insurer's insurance premium tax liability. The credit amount is equal to the amount the insurer gave as a deduction to policyholders in a taxable year. This credit carries over and can be used within a five-year period if the insurer has insufficient tax liability in a given taxable year.

The bill requires insurers to quarterly and annually report the number of policies receiving deductions and the total amount of deductions provided by the insurer.

The bill gives the DOR the power to investigate and audit insurance companies giving deductions. The department can ask the Office of Insurance Regulation for assistance with technical audits.

The bill provides that in addition to its existing authority, the Office of Insurance Regulation can examine the information reported by an insurer and take corrective measures if an insurer is not in compliance.

## **Corporate Income Tax**

Florida levies a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.<sup>91</sup> 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.<sup>92</sup> 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, unless the state chooses not to adopt specific federal provisions.

### ***Adoption of the Internal Revenue Code***

#### Current Situation

Florida maintains its relationship with the federal Internal Revenue Code (IRC) by annually adopting the IRC as it exists on January 1.<sup>93</sup> By doing this, Florida adopts any changes related to determining federal taxable income that were made during the previous year. However, a state may choose to not adopt or to "decouple" from particular changes made to the IRC in the prior year, and instead specify its own treatment of the issue, or allow the previous IRC treatment to continue for Florida tax purposes.

#### Effect of Proposed Changes

The bill updates the Florida corporate income tax code by adopting the IRC as in effect on January 1, 2024.

This section of the bill is effective upon becoming law and applies retroactively to January 1, 2024.

### ***Individuals with Unique Abilities Tax Credit***

#### Current Situation

The Legislature adopted a number of provisions in 2016 aimed at improving the quality of life and integration of individuals with disabilities in the workforce.<sup>94</sup> These included modifying the state's equal employment opportunity policy to provide enhanced executive agency employment opportunities for

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<sup>91</sup> S. 220.11(2), F.S.

<sup>92</sup> S. 220.12, F.S.

<sup>93</sup> Ss. 220.03(1)(n) and (2)(c), F.S.

<sup>94</sup> Ch. 2016-3, L.O.F.

those with a disability; creating the Employment First Act, which requires certain state agencies and organizations to develop an agreement to improve employment outcomes for those with a disability;<sup>95</sup> and creating the Florida Unique Abilities Partner Program to recognize businesses that demonstrate commitment to the independence of individuals who have a disability through employment or support.<sup>96</sup>

### Effect of Proposed Changes

The bill creates s. 220.19912, F.S., providing for a corporate income tax credit for corporations that employ individuals with disabilities in this state. The credit is for \$1 per hour worked, up to \$1,000 per employee per year. The maximum amount of credit that can be earned by a corporation in any year is \$10,000, and unused credits may be carried forward for up to five taxable years. The maximum credit amount that can be awarded statewide is \$5 million per state fiscal year. The credit is available for three fiscal years, 2024-25, 2025-26, and 2026-27.

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.

## **Credits Available Against Multiple Taxes**

### ***Strong Families Tax Credit Program***

#### Current Situation

The Strong Families Tax Credit Program, established in s. 402.62, 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.<sup>97</sup> The organizations are certified by the Department of Children and Families (DCF).<sup>98</sup> The tax credits are a dollar-for-dollar credit against the business's liability for corporate income tax; insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders; or alcoholic beverage taxes on beer, wine and spirits.<sup>99</sup> The credit is equal to 100 percent of the eligible contributions made to the charitable organization.

Businesses that wish to participate in the program by making a donation to an eligible charitable organization must apply to DOR for an allocation of tax credit available for a given fiscal year.<sup>100</sup> The application period begins at 12:01am on January 1<sup>st</sup> each year. 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.<sup>101</sup> In 2023, the Legislature increased the annual tax credit cap for all credits under this program from \$10 million to \$20 million per state fiscal year.<sup>102</sup> DOR is required to approve the tax credits on a first-come, first-served basis and must obtain the approval of DBPR before approving an alcoholic beverage tax credit under s. 561.1213, F.S.<sup>103</sup>

### Effect of Proposed Changes

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<sup>95</sup> The Employment First Florida website is available at <https://www.employmentfirstfl.org/> (last visited February 7, 2024).

<sup>96</sup> The Unique Abilities Partner Program is housed within the Department of Commerce; additional information is available at <https://floridajobs.org/unique-abilities-partner-program> (last visited February 7, 2024).

<sup>97</sup> Ch. 2021-31., L.O.F.

<sup>98</sup> See, <https://www.myflfamilies.com/about/strong-families-tax-credit> (last visited Feb. 4, 2024).

<sup>99</sup> S. 402.62, F.S., along with ss. 211.0253, 212.1834, 220.1877, 561.1213, and 624.51057, F.S.

<sup>100</sup> S. 402.62(5)(b), F.S.

<sup>101</sup> S. 402.62(5)(b)1., F.S.

<sup>102</sup> Ch. 2023-157, s. 38, L.O.F.; S. 402.62(5)(a), F.S.

<sup>103</sup> S. 402.62(5)(b)1., F.S.



The bill increases the annual cap for the Strong Families program from \$20 million per state fiscal year to \$40 million per state fiscal year, beginning in Fiscal Year 2024-25.

The bill also provides that the application window for the Strong Families tax credit begins at 9 a.m. on the first day of the calendar year preceding the fiscal year that is not a Saturday, Sunday, or legal holiday, beginning in Fiscal Year 2025-26. For Fiscal Year 2024-25, taxpayers may apply for the additional \$20 million credit beginning at 9:00 a.m. on July 1, 2024.

## **Ad Valorem Taxation**

The ad valorem tax, or “property tax,” is an annual tax levied by local government. The Florida Constitution prohibits the state from levying ad valorem taxes on real property,<sup>104</sup> and instead authorizes local governments, including counties, school districts, and municipalities to levy ad valorem taxes. Special districts may also be given this authority by law.<sup>105</sup>

The property appraiser annually determines the “just value”<sup>106</sup> of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”<sup>107</sup> Tax bills are mailed in November of each year, and payment is due by March 31.<sup>108</sup> The tax is based on the taxable value of property as of January 1 of each year.<sup>109</sup>

Ad valorem taxes are also levied on certain tangible personal property (TPP). “Tangible personal property” means all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is intrinsic to the article itself.<sup>110</sup> All tangible personal property is subject to ad valorem taxation unless expressly exempted.<sup>111</sup> Household goods and personal effects,<sup>112</sup> items of inventory,<sup>113</sup> and up to \$25,000 of assessed value for each tangible personal property tax return<sup>114</sup> are exempt from ad valorem taxation.

TPP taxes apply to persons conducting business operations. Anyone who owns TPP and has a proprietorship, partnership, corporation, who leases, lends, or rents property, or who is a self-employed agent or contractor, must file a TPP return to the property appraiser by April 1 each year.<sup>115</sup>

## ***Tax Benefits for Property and Equipment used in Renewable Natural Gas Production***

### Current Situation

#### *Limitations on Assessment of Real Property*

Current law prohibits a property appraiser who is determining the assessed value of real property from considering any increase in the just value of residential property or 80 percent of the just value of non-residential property attributable to the installation of a renewable energy source device.<sup>116</sup> This law applies to a renewable energy source device installed on or after January 1, 2013, on new and existing residential real property, and to a renewable energy source device installed on or after January 1,

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<sup>104</sup> Art. VII, s. 1(a), Fla. Const.

<sup>105</sup> Art. VII, s. 9., Fla. Const.

<sup>106</sup> Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. (Art. VII, s. 4, Fla. Const.). 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 *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

<sup>107</sup> Ss. 192.001(2) and (16), F.S.

<sup>108</sup> Ss. 197.322 and 197.333, F.S.

<sup>109</sup> S. 192.042, F.S.

<sup>110</sup> S. 192.001(11)(d), F.S.

<sup>111</sup> S. 196.001(1), F.S.

<sup>112</sup> S. 196.181, F.S.

<sup>113</sup> S. 196.185, F.S.

<sup>114</sup> S. 196.183, F.S.

<sup>115</sup> S. 193.062, F.S.; see also FLA. DEP’T OF REVENUE, *Tangible Personal Property*, [https://floridarevenue.com/property/Pages/Taxpayers\\_TangiblePersonalProperty.aspx](https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx) (last visited Feb. 10, 2024).

<sup>116</sup> S. 193.624(2), F.S.

2018, to all other real property.<sup>117</sup> The statute defines the term “renewable energy source device” to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- Solar energy collectors, photovoltaic modules, and inverters;
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks;
- Rockbeds;
- Thermostats and other control devices;
- Heat exchange devices;
- Pumps and fans;
- Roof ponds;
- Freestanding thermal containers;
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type;
- Windmills and wind turbines;
- Wind-driven generators;
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy; and
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.<sup>118</sup>

### *Partial Exemption of Tangible Personal Property*

Tangible personal property (TPP) taxes apply to persons conducting business operations. Anyone who owns TPP and has a proprietorship, partnership, corporation, who leases, lends, or rents property, or who is a self-employed agent or contractor, must file a TPP return to the property appraiser by April 1 each year.<sup>119</sup> Each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to \$25,000 of assessed value.<sup>120</sup> A single return must be filed for each site in the county where the owner of tangible personal property transacts business.<sup>121</sup>

Current law provides an ad valorem tax exemption of 80 percent of the assessed value of a renewable energy source device that is considered TPP, so long as the renewable energy source device<sup>122</sup>:

- Is installed on real property on or after January 1, 2018;
- Was installed before January 1, 2018, to supply a municipal electric utility located within a consolidated government; or
- Was installed after August 30, 2016, on municipal land as part of a project incorporating other renewable energy source devices under common ownership on municipal land for the sole purpose of supplying a municipal electric utility with specified megawatts of power.

### *Biogas and Renewable Natural Gas*

Renewable Natural Gas (RNG) is biogas<sup>123</sup> that has been upgraded or refined for use in place of fossil natural gas. Under Florida Law, RNG is defined in s. 366.91(f) F.S., as “anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater

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<sup>117</sup> S. 193.624(3), F.S.

<sup>118</sup> S. 193.624(1), F.S.

<sup>119</sup> S. 193.062, F.S.; see also FLA. DEP’T OF REVENUE, *Tangible Personal Property*, [https://floridarevenue.com/property/Pages/Taxpayers\\_TangiblePersonalProperty.aspx](https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx) (last visited February 4, 2024).

<sup>120</sup> S. 196.183(1), F.S.

<sup>121</sup> S. 196.183(1), F.S.

<sup>122</sup> S. 196.182(1), F.S.; However, s. 196.182(2), F.S., does not allow an exemption on a device installed in a fiscally constrained county if there was an application for a comprehensive plan amendment or planned unit development zoning filed with the county on or before December 31, 2017.

<sup>123</sup> Section 366.91(2)(a), F.S. defines biogas as “a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas.”

which may be used as a transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline.”<sup>124</sup>

Sources of biogas that are later refined to produce RNG include organic waste from food, agriculture, wastewater treatment and landfills.<sup>125</sup> In order to complete the process of converting biogas into RNG, facilities capture the biogas, “clean” it to pipeline standards, and then inject it into the pipeline for customer use.<sup>126</sup> At least three facilities in Florida are converting biogas into RNG,<sup>127</sup> with more in development.<sup>128</sup>

### Effect of Proposed Changes

The bill expands the ad valorem tax benefits for renewable energy source devices to include facilities used to capture and convert biogas to RNG. Specifically, it expands the definition of “renewable energy source device” used by both ss. 193.624 and 196.182, F.S., to include equipment that collects, transmits, stores or uses energy derived from biogas, as defined in s. 366.91, F.S. Under the bill, such equipment includes pipes, equipment, structural facilities, structural support, and any other machinery integral to the interconnection, production, storage, compression, transportation, processing, and conversion of biogas from landfill waste, livestock farm waste, including manure, food waste, or treated wastewater into renewable natural gas as defined in s. 366.91, F.S.

The bill clarifies that equipment on the distribution or transmission side of the point at which a renewable energy source device is interconnected to a natural gas pipeline or distribution system is not a renewable energy source device.

The expanded benefits affect existing facilities that otherwise meet the timing requirements of current law and facilities under construction, along with future facilities.

### ***Construction Work in Progress***

#### Current Situation

Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is intrinsic to the article itself.<sup>129</sup> All tangible personal property is subject to ad valorem taxation unless expressly exempted.<sup>130</sup> Household goods and personal effects,<sup>131</sup> items of inventory,<sup>132</sup> and up to \$25,000 of assessed value for each tangible personal property tax return<sup>133</sup> are exempt from ad valorem taxation. Anyone who owns tangible personal property on January 1 of each year and who has a proprietorship, partnership, or corporation, or is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 each year.<sup>134</sup>

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<sup>124</sup> See also s. 212.08(5)(v)1., F.S.

<sup>125</sup> U.S. Environmental Protection Agency, *An Overview of Renewable Natural Gas from Biogas*, available at [https://www.epa.gov/sites/default/files/2020-07/documents/lmop\\_rng\\_document.pdf](https://www.epa.gov/sites/default/files/2020-07/documents/lmop_rng_document.pdf) (last visited February 4, 2024).

<sup>126</sup> Presentation on Florida’s Energy Future (Liquefied Natural Gas, Renewable Natural Gas, and Small Modular Reactors), Tampa Electric Company (Dec. 6, 2023), slide 5, available at

<https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3226&Session=2024&DocumentType=Meeting+Packets&FileName=ecc+12-6-23.pdf> (last visited February 4, 2024).

<sup>127</sup> *Id.* at slide 10, 12-16.

<sup>128</sup> Nasdaq, *Chesapeake Utilities Corporation to Develop its First RNG Facility in Florida* (Feb. 21, 2023), <https://www.nasdaq.com/press-release/chesapeake-utilities-corporation-to-develop-its-first-rng-facility-in-florida-2023-02> (last visited February 4, 2024) (Chesapeake Utilities Corporation is installing a dairy manure renewable natural gas facility in Madison County, Florida).

<sup>129</sup> S. 192.001(11)(d), F.S.

<sup>130</sup> S. 196.001(1), F.S.

<sup>131</sup> S. 196.181, F.S.

<sup>132</sup> S. 196.185, F.S.

<sup>133</sup> S. 196.183, F.S.

<sup>134</sup> S. 193.062, F.S.; see also DOR, Tangible Personal Property,

[https://floridarevenue.com/property/Pages/Taxpayers\\_TangiblePersonalProperty.aspx](https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx) (last visited Feb. 10, 2024).

Section 192.001(11)(d), F.S., also defines "construction work in progress" as items consisting of tangible personal property commonly known as fixtures, machinery, and equipment when in the process of being installed in new or expanded improvements to real property and whose value is materially enhanced upon connection or use with a preexisting, taxable, operational system or facility. Construction work in progress is subject to ad valorem taxation when it is deemed to be substantially completed, meaning when it is connected with the preexisting, taxable, operational system or facility.

### Effect of Proposed Changes

The bill amends s. 192.001(11)(d), F.S., to clarify that for the purpose of taxing tangible personal property constructed or installed by an electric utility, construction work in progress is not deemed substantially completed unless all permits or approvals required for commercial operation have been received or approved.

### **Documentary Stamp Tax**

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.<sup>135</sup>

The tax on deeds and other documents related to real property is 70 cents per \$100,<sup>136</sup> and the tax on bonds, debentures, certificates of indebtedness, promissory notes, nonnegotiable notes, and other written obligations to pay money is 35 cents per \$100.<sup>137</sup> Documentary stamp taxes levied on promissory notes, nonnegotiable notes, and written obligations may not exceed \$2,450.<sup>138</sup>

### ***Reverse Mortgages***

#### Current Situation

Equity conversion mortgages (reverse mortgages) give older homeowners the option to borrow money in an amount based on their home's equity.<sup>139</sup> When the homeowner moves or dies, the proceeds from the sale of the home are used to pay off the reverse mortgage loan.<sup>140</sup> Reverse mortgages are regulated by the U.S. Department of Housing and Urban Development (HUD), and the only federally insured reverse mortgage product is the Home Equity Conversion Mortgage.<sup>141</sup>

The principal limit amount is the maximum amount that a homeowner can borrow under the loan.<sup>142</sup> In calculating the principal limit amount, lenders look to the "maximum claim amount," which is the lesser of the appraised value of the home, the sale price of the home being purchased, or the maximum limit that HUD will insure (\$1,089,300).<sup>143</sup> HUD requires certain reverse mortgage lenders to state the maximum mortgage amount as 150 percent of the maximum claim amount in the mortgage documents.<sup>144</sup> This amount is required because the loan payments are secured not only by the current value of the house but also by any possible appreciation in value.<sup>145</sup>

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<sup>135</sup> Florida Department of Revenue, *Florida Documentary Stamp Tax*, available at [https://floridarevenue.com/taxes/taxesfees/pages/doc\\_stamp.aspx](https://floridarevenue.com/taxes/taxesfees/pages/doc_stamp.aspx) (last visited Feb. 9, 2024).

<sup>136</sup> S. 201.02(1)(a), F.S.

<sup>137</sup> Ss. 201.07 and 201.08(1)(b), F.S.

<sup>138</sup> S. 201.08(1)(a), F.S.

<sup>139</sup> Federal Trade Commission, *Reverse Mortgages*, <https://consumer.ftc.gov/articles/reverse-mortgages> (last visited Feb. 9, 2024).

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> Consumer Financial Protection Bureau, *Reverse Mortgages Key Terms*, <https://www.consumerfinance.gov/consumer-tools/reverse-mortgages/answers/key-terms/> (last visited Feb. 9, 2024).

<sup>143</sup> *Id.*

<sup>144</sup> U.S. Department of Housing and Urban Development, *Home Equity Conversion Mortgages Handbook*, ch. 6.6, available at: <https://www.hud.gov/sites/documents/42351C6HSGH.PDF> (last visited Feb. 10, 2024).

<sup>145</sup> *Id.*

In Florida, if a mortgage is recorded in the state, it is subject to the documentary stamp tax on the full amount of the obligation secured by the mortgage, regardless of whether the indebtedness is contingent.<sup>146</sup> Currently, the documentary stamp tax is applied to the entire mortgage obligation amount rather than being applied to the principal limit amount.

### Effect of Proposed Changes

For reverse mortgages, the bill requires the documentary stamp tax to be applied to the principal limit amount and not the entire mortgage obligation amount. The bill defines “principal limit,” and requires the documentary stamp tax be calculated on the principal limit at the time of closing. The bill clarifies that the changes to the act apply retroactively, but do not create a right to a refund or credit of any tax paid before the effective date of the act.

## **Tax Administration**

### ***Extension of Filing Times***

#### Current Situation

##### *Florida Sales and Use Tax Filings*

Dealers are businesses and entities that collect state sales tax on items and services the dealer sells. Dealers estimate their tax liability and remit the sales tax to the Department of Revenue, usually on a monthly basis.<sup>147</sup> Dealers are required to file a return and remit the taxes owed to the state by the 20<sup>th</sup> day of each month.<sup>148</sup> Failure by a dealer to timely file a return or remit the tax owed results in a penalty in the amount of 10 percent of the tax shown on the return.<sup>149</sup> However, the Executive Director of the Department of Revenue has the authority to extend the stipulated due date for tax returns and accompanying tax payments if there is a declared state of emergency.<sup>150</sup>

##### *Corporate Income Tax Return Filings*

A corporate income taxpayer is required to file a Florida income tax return in every year that it is liable for Florida corporate income tax or is required to file a federal income tax return.<sup>151</sup> The due dates to file several tax returns related to corporate income tax are tied to the federal law. When a Florida corporation is granted an extension of time to file its federal return, the taxpayer may file an extension of time to file its Florida return. If granted, the extended Florida due date will be the 15<sup>th</sup> day after the expiration of the 6-month federal extension.<sup>152</sup> the Executive Director of the Department of Revenue has the authority to extend the stipulated due date for tax returns and accompanying tax payments if there is a declared state of emergency.<sup>153</sup> In addition, the Department of Revenue can grant an extension or extensions of time for the filing of any return for good cause upon request.<sup>154</sup>

### Effect of Proposed Changes

The bill requires the Department of Revenue to grant an automatic 10-day extension from the due date for filing a return and remitting sales tax if a declaration of a state of emergency is issued by the Governor within 5 business days before the 20<sup>th</sup> day of the month. The extension only applies to taxpayers within the counties affected by the state of emergency.

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<sup>146</sup> Rule 12B-4.052(1)(b), F.A.C.

<sup>147</sup> S. 212.11 (1), F.S.

<sup>148</sup> S. 212.11(1)(b), F.S.

<sup>149</sup> S. 212.12(2)(a), F.S.

<sup>150</sup> S. 213.055(2)(a), F.S.

<sup>151</sup> S. 220.22, F.S.

<sup>152</sup> For corporate taxpayers with a taxable year ending on June 30<sup>th</sup>, the extension is 15 days 7 months from the original due date. S. 220.222(2)(d), F.S.

<sup>153</sup> S. 213.055(2)(a), F.S.

<sup>154</sup> S. 220.222(1)(b), F.S.

The bill requires the Department of Revenue to grant a 15-day automatic extension for Florida corporate income tax returns beyond the due date of a federal corporate income tax return that has been extended by the IRS due to a federally-declared disaster.

## ***Sales Tax Collection Enforcement Diversion Program***

### Current Situation

The Department of Revenue, in cooperation with the Florida Association of Centers for Independent Living (FACIL) and the Florida Prosecuting Attorneys Association, was required to select judicial circuits to participate in the tax collection enforcement diversion program.<sup>155</sup> That program required state attorney's offices to collect revenue due from persons who have not remitted their collected sales tax. Seventy-five percent of the funding collected through this program is deposited into a special account to administer the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program (JP-PAS Program).<sup>156</sup>

The tax collection enforcement diversion program is operated in state attorney's offices in the following eight Florida circuits:<sup>157</sup>

- The Fourth Judicial Circuit (Clay, Duval, Nassau).
- The Sixth Judicial Circuit (Pasco, Pinellas).
- The Ninth Judicial Circuit (Orange, Osceola).
- The Eleventh Judicial Circuit (Miami-Dade).
- The Thirteenth Judicial Circuit (Hillsborough).
- The Fifteenth Judicial Circuit (Palm Beach).
- The Seventeenth Judicial Circuit (Broward).
- The Twentieth Judicial Circuit (Charlotte, Collier, Glades, Hendry, Lee).

The JP-PAS Program assists individuals employed in Florida, or in counties adjacent to Florida, with Personal Care Attendant (PCA) services that assist them with activities of daily living, such as dressing, grooming, or eating.<sup>158</sup> The JP-PAS Program is administered by the Florida Association of Centers for Independent Living (FACIL) and provides participants with reimbursement for expenses for PCA services, up to \$2,160 a month.<sup>159</sup>

Prior to 2021, 50 percent of the revenue from the tax collection enforcement diversion program was given to FACIL for the administration of the JP-PAS Program.<sup>160</sup> In 2021, the Legislature increased the amount to 75 percent of the revenue going to FACIL.<sup>161</sup>

The Revenue Estimating Conference (REC) estimated<sup>162</sup> that the sales tax collection enforcement diversion program will generate approximately \$3.6 million in revenue in Fiscal Year 2023-24. The REC projects that the revenue from the sales tax collection enforcement diversion program will remain flat for the next five years.<sup>163</sup>

### Effect of Proposed Changes

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<sup>155</sup> S. 413.4021, F.S.

<sup>156</sup> S. 413.4021(1), F.S.

<sup>157</sup> Florida Association of Centers for Independent Living, *The James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program Policies and Procedures for Program Participants*, available at: <https://floridacils.org/pca-services-program/> (last visited Feb. 3, 2024).

<sup>158</sup> S. 413.402, F.S.

<sup>159</sup> *Id.*

<sup>160</sup> S. 413.4021, F.S.

<sup>161</sup> The remaining 25 percent of the revenue from the tax collection enforcement diversion program is placed into General Revenue for the state.

<sup>162</sup> The Revenue Estimating Conference is required to annually project the amount of funds expected to be generated from the tax collection enforcement diversion program pursuant to s. 413.4021(3), F.S.

<sup>163</sup> Revenue Estimating Conference, *Tax Collection Enforcement Diversion Program*, available at: <http://edr.state.fl.us/Content/conferences/generalrevenue/taxcollectiondivprog.pdf> (last visited Feb. 3, 2024).

The bill increases the percentage of revenue from the sales tax collection enforcement diversion program that is provided to FACIL for the administration of the JP-PAS Program from 75 percent to 100 percent.

## ***Distribution for Horse Breeding and Racing Promotion***

### Current Situation

#### *Sales Tax Distributions*

The disposition of sales and use taxes, certain communications services taxes, and certain gross receipts taxes<sup>164</sup> is provided for in s. 212.20, F.S. That statute provides the reallocation of tax revenue to a series of trust funds,<sup>165</sup> distributions to the General Revenue Fund,<sup>166</sup> and other distributions in accordance with other sections of law (e.g., to the Revenue Sharing Trust Funds for Counties and Municipalities).<sup>167</sup>

#### *Horse Breeding and Racing in Florida*

The Florida horse industry generates an annual \$6.8 billion impact on the gross domestic product of Florida, along with providing nearly 250,000 jobs. The Florida Thoroughbred industry has, in addition to the economic impact, produced one Triple Crown winner, six Kentucky Derby winners, seven Preakness winners, six Belmont Stakes winners, and 52 national champions.

The Florida Thoroughbred Breeders' and Owners' Association (sometimes styled as the "Florida thoroughbred Breeders' Association, Inc.") is a not-for-profit that represents more than 1,300 thoroughbred breeders and owners in Florida. The Association works with the Florida Department of Agriculture and Consumer Services to promote and market the industry both nationally and internationally, as well as providing awards to promote Florida Thoroughbreds in the industry.

The Florida Horseman's Benevolent & Protective Association (sometimes styled as the "Florida Thoroughbred Horsemen's Association), is a not-for profit representing more than 5,000 Thoroughbred horse owners and trainers who do business in Florida. The organization promotes relationships with racetracks, community, and government.

The horseman's association representing the majority of the thoroughbred racehorse owners and trainers at any particular facility received a 1 percent distribution from the purses at that facility for authorized uses. The awards for breeders, trainers, and owners are generally provided for in statute, although the specific awards, procedures, and payments may vary according to adopted plans.

Tampa Bay Downs is one of America's oldest and most well-maintained tracks, and is the only Thoroughbred race track on the west coast of Florida. It opened in 1926, and has been used for Thoroughbred racing for most of the intervening years, subject to economic downturns, wars, and natural disasters.

Gulfstream Park Racing, located between Fort Lauderdale and Miami, has been in operation since the 1940s, and is probably most well known as the host of the G1 Florida Derby, a race that has produced the Kentucky Derby winner 24 times in 65 years.

#### *Florida Agricultural Promotional Campaign*

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<sup>164</sup> S. 212.20(6), F.S., provides distribution requirements for chapter 212, communications services tax under ss. 202.18(1)(b) and d (2)(b), and gross receipts taxes under s. 203.01(1)(a)3., F.S.

<sup>165</sup> E.g., s. 212.20(6)(a) and (b), F.S.

<sup>166</sup> E.g., s. 212.20(6)(c)1., F.S.

<sup>167</sup> E.g., ss. 212.20(6)(c)2., (d)3., 4., and 6., F.S.

In 1990, the Legislature created the Florida Agricultural Promotional Campaign Trust Fund to support the Florida Agricultural Promotional Campaign.<sup>168</sup> The goal of the campaign was to “increase consumer awareness and expand the market for Florida’s agricultural products.”<sup>169</sup> The Trust Fund, within the Department of Agriculture and Consumer Services, holds funding for implementing the Florida Agricultural Promotional Campaign.<sup>170</sup> The campaign is probably best well known for the “Fresh From Florida” marketing campaign and related logos.<sup>171</sup>

In 2023, the Legislature enacted a provision to distribute \$27.5 million of General Revenue to the Florida Agricultural Promotional Campaign Trust Fund for the promotion of Florida thoroughbred breeding and racing in Florida for two years.<sup>172</sup> The Legislature required 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.
  - 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.

The provision requiring these distributions will be repealed in 2025 unless reviewed and saved from repeal by the Legislature.<sup>173</sup>

### Effect of Proposed Changes

The bill extends for two years the current distributions of \$27.5 million in General Revenue in the same manner in which the funding is distributed now. The distributions will be repealed in 2027 unless reviewed and saved from repeal by the Legislature.

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<sup>168</sup> Ch. 90-323, L.O.F., s. 16

<sup>169</sup> S. 571.22, F.S.

<sup>170</sup> S. 571.26, F.S.

<sup>171</sup> More information about “Fresh From Florida” is available on the Department of Agriculture and Consumer Services website at <https://www.fdacs.gov/Agriculture-Industry/Fresh-From-Florida-Industry-Membership> (last visited Feb. 10, 2024).

<sup>172</sup> S. 39, ch. 2023-157, L.O.F.

<sup>173</sup> S. 212.20(5)(d)6.f., F.S.



## ***Technical Updates***

### Current Situation

The antiquated term “tax assessor” is used in several places in statute.

### Effect of Proposed Changes

The bill makes technical changes to update antiquated language in statute. References to the “tax assessor” are updated with the terms “property appraiser” and “tax collector” as appropriate.

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

- Section 1: Amends s. 125.0104, F.S., revising the referendum requirements for levying tourist development taxes.
- Section 2: Amends s. 192.001, F.S. clarifying when a construction work in progress project is deemed substantially completed if owned by an electric utility.
- Section 3: Provides that the changes made under 192.001, F.S., first apply to the 2025 ad valorem tax roll.
- Section 4: Amends s. 193.624, F.S., expanding a definition to include facilities used to convert biogas to renewable natural gas.
- Section 5: Provides that the changes made under s. 193.624, F.S., first apply to the 2025 ad valorem tax roll.
- Section 6: Amends s. 194.037, F.S., updating antiquated statutory language.
- Section 7: Amends s. 201.08, F.S., requiring the documentary stamp tax be applied only to the principal limit amount of a home equity conversion mortgage.
- Section 8: Provides that changes made under s. 201.08, F.S., apply retroactively, but no right is created to a refund or credit of tax paid before the effective date of the act.
- Section 9: Amends s. 212.0306, F.S., clarifying that an ordinance to adopt a local option food and beverage tax in certain municipalities must pass by a majority vote of the voters voting in the election.
- Section 10: Amending s. 212.031, F.S., reducing the business rent tax rate for one year.
- Section 11: Amends s. 212.05, F.S., allowing for alternative taxation of motor vehicles when such vehicles will be used under certain long-term leases.
- Section 12: Amending s. 212.055, F.S., revising referendum requirements for the levy of discretionary sales surtaxes. Removing language to allow consolidated counties to levy the indigent care and trauma center surtax.
- Section 13: Amending s. 212.11, F.S., allowing sales tax return filing and remittance extensions if a disaster declaration occurs at a specified time.
- Section 14: Amends s. 212.20, F.S., extending certain funding for the promotion of horse racing and breeding in the state.
- Section 15: Amends s. 220.02, F.S., revising the order of tax credits to conform with other provisions of the bill.
- Section 16: Amends s. 220.03, F.S., adopting the Internal Revenue Code in effect on January 1, 2024.
- Section 17: Provides that changes made to s. 220.03, F.S., take effect upon becoming law and operate retroactively to January 1, 2024.
- Section 18: Creates s. 220.1992, F.S., establishing a corporate income tax credit for employing individuals with disabilities in this state.
- Section 19: Amends s. 220.222, F.S., allowing the filing deadline for corporate income returns to be extended during federally declared disasters.
- Section 20: Amends s. 374.986, F.S., updating antiquated language.
- Section 21: Amends s. 402.62, F.S., modifying the application timing under the Strong Families tax credit program and increasing the Strong Families tax credit cap.
- Section 22: Clarifies duties of the Department of Revenue regarding the Strong Families tax credit application.

- Section 23: Amends s. 413.4021, F.S., increasing the amount of revenue to be deposited from the Tax Collection Diversion Program.
- Section 24: Amends s. 571.265, F.S., relating to distributions of General Revenue to promote horse racing and breeding and extending the repeal date.
- Section 25: Creates s. 624.5108, F.S., creating an insurance premium deduction for certain homestead property owners. Creating an insurance premium tax credit for certain insurers. Providing investigative and rulemaking authority to the Department of Revenue and the Office of Insurance Regulation.
- Section 26: Provides exemptions from the sales and use tax for specified disaster preparedness supplies during specified timeframes.
- Section 27: Provides exemptions from the sales and use tax for certain admissions to music events, sporting events, cultural events, specified performances, movies, museums, state parks, and fitness facilities, during specified timeframes and for certain boating and water activity, camping, fishing, general outdoor supplies, and pool supplies during a specified timeframe.
- Section 28: Provides exemptions from the sales and use tax on the retail sale of certain clothing, wallets, bags, school supplies, learning aids, personal computers, and personal computer related accessories during a specified timeframe.
- Section 29: Provides an exemption from sales and use tax on the retail sale of certain tools used by skilled trade workers during a specified timeframe.
- Section 30: Provides for a county designated as an area of critical state concern to use surplus tourist development and impact taxes to provide affordable housing for certain individuals.
- Section 31: Authorizes the Department of Revenue to adopt emergency rules to implement several provisions of the act.
- Section 32: Provides effective dates.

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

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

1. Revenues:  
See FISCAL COMMENTS section.
2. Expenditures:  
See FISCAL COMMENTS section.

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

1. Revenues:  
See FISCAL COMMENTS section.
2. Expenditures:  
See FISCAL COMMENTS section.

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

The bill provides for a number of temporary sales tax benefits: a 14-day sales tax holidays for back-to-school; two 14-day sales tax holidays for disaster preparation supplies; a one-month holiday for recreational items and activities; a 7-day sales tax holiday for skilled worker tools; and a reduction in the sales tax on commercial rent to 1.25 percent for one year. The bill also extends the sales tax filing and remittance deadlines if a state of emergency is declared within a certain period of time.

The bill also benefits corporate income taxpayers in Florida by creating a corporate income tax credit for businesses that hire persons with disabilities and extending filing deadlines when a federal disaster has been declared.

The bill expands the ad valorem tax benefits for renewable energy source devices to include facilities used to capture and convert biogas to renewable energy source devices.

The bill creates an insurance premium deduction for certain homestead property owners and creates a corresponding insurance premium tax credit for certain insurers.

**D. FISCAL COMMENTS:**

The Revenue Estimating Conference estimated the total state and local impact of the bill in Fiscal Year 2024-25 to be -\$619.6 million (-\$31.9 million recurring), of which -\$519.4 million (-\$24.2 million recurring) is on General Revenue, -\$3.1 million (-\$3.2 million recurring) is on state trust funds, and -\$97.1 million (-\$4.5 million recurring) is on local government (see following table). Nonrecurring General Revenue impacts in years beyond Fiscal Year 2024-25 total -\$250.0 million. Total tax reductions embodied in the language are represented by the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The total of -\$883.3 million in tax reductions in the bill is the sum of -\$31.9 million (recurring), -\$851.4 million (pure nonrecurring in Fiscal Year 2024-25), and -\$250.0 million (pure nonrecurring after Fiscal Year 2024-25).

<b>Fiscal Year 2024-25 Estimated Fiscal Impacts (Millions of \$)</b>								
<u>Tax Package</u>	FY 2024-25							
	General Revenue		Trust Fund		Local		Total	
	Cash	Recur	1st Year	Recur	1st Year	Recur	1st Year	Recur
<u>Sales Tax</u> : Prepayment of Sales Tax on Motor Vehicle Leases	9.1	(1.1)	*	(*)	2.4	(0.2)	11.5	(1.3)
<u>Sales Tax</u> : Business Rent Tax - One Year Reduction to 1.25%	(273.3)	-	(*)	-	(35.4)	-	(308.7)	-
<u>Sales Tax</u> : Freedom Month Sales Tax Holiday	(71.4)	-	(*)	-	(19.1)	-	(90.5)	-
<u>Sales Tax</u> : Back-to-School Sales Tax Holiday	(76.7)	-	(*)	-	(20.5)	-	(97.2)	-
<u>Sales Tax</u> : Disaster Preparedness Sales Tax Holidays	(63.3)	-	(*)	-	(16.9)	-	(80.2)	-
<u>Sales Tax</u> : Tool Time Sales Tax Holiday	(15.7)	-	(*)	-	(4.1)	-	(19.8)	-
<u>Sales Tax</u> : Distribution for JP-PAS from recovered sales tax from Tax Collection Diversion Program	(0.8)	(0.8)	-	-	(0.1)	(0.1)	(0.9)	(0.9)
<u>Ad Valorem</u> : Renewable Energy Source Device Assessment Limitation	-	-	-	-	(0.5)	(1.3)	(0.5)	(1.3)
<u>Ad Valorem</u> : Construction Work in Progress	-	-	-	-	(2.9)	(2.9)	(2.9)	(2.9)
<u>Corp. Inc. Tax</u> : Adoption of the Internal Revenue Code	-	-	-	-	-	-	-	-
<u>Corp. Inc. Tax</u> : Persons with Unique Abilities Tax Credit - Three Years	(5.0)	-	-	-	-	-	(5.0)	-
<u>Doc. Stamp Tax</u> : Reverse Mortgages	(2.3)	(2.3)	(3.1)	(3.2)	-	-	(5.4)	(5.5)
<u>Tourist Development Tax</u> : Voter Approval of New and Existing TDT; Limited to 6 Years	**	-	-	-	-	-	**	-
<u>Tourist Development Tax</u> : One Time Use of Existing TDT Funds for Affordable Housing in Monroe County	-	-	-	-	-	-	-	-
<u>Local Sales Taxes</u> : Voter Approval of New Discretionary Sales Surtaxes; Limited to 10 Years	-	-	-	-	-	-	-	-
<u>Local Sales Taxes</u> : Allow Duval to Levy Indigent Care Sales Surtax	-	-	-	-	-	0/**	-	0/**
<u>Local Option Tax</u> : Local Food & Beverage Tax - Voter Clarification	-	-	-	-	-	-	-	-
<u>Multiple Taxes</u> : Strong Families - Increase Cap	(20.0)	(20.0)	-	-	-	-	(20.0)	(20.0)
<u>Multiple Taxes</u> : Automatic Extension of Time for Returns	-	-	-	-	-	-	-	-
<b>FY 2024-25 Total</b>	<b>(519.4)</b>	<b>(24.2)</b>	<b>(3.1)</b>	<b>(3.2)</b>	<b>(97.1)</b>	<b>(4.5)</b>	<b>(619.6)</b>	<b>(31.9)</b>
<b>Non-recurring Impacts After FY 2024-25</b>								
	General Revenue		Trust Fund		Local		Total	
	Cash		Cash		Cash		Cash	
<u>Sales Tax</u> : Distribution for Horse Breeding and Racing Promotion - 2 years extension	(55.0)	-	-	-	-	-	(55.0)	-
<u>Corp. Inc. Tax</u> : Persons with Unique Abilities Tax Credit - Three Years	(10.0)	-	-	-	-	-	(10.0)	-
<u>Ins. Prem. Tax</u> : Homestead Owner Policy Deduction/Ins Company Credit	(185.0)	-	-	-	-	-	(185.0)	-
Subtotal for Out Years	(250.0)	-	-	-	-	-	(250.0)	-
<b>Bill Total</b>	<b>(769.4)</b>	<b>(24.2)</b>	<b>(3.1)</b>	<b>(3.2)</b>	<b>(97.1)</b>	<b>(4.5)</b>	<b>(869.6)</b>	<b>(31.9)</b>
							Pure Nonrecurring=	(851.4)
							Recurring + Nonrecurring=	(883.3)
(*) Impact less than \$100,000; (**) Impact is indeterminate; (+/-) impact could be positive or negative. (1) Recurring tax cut total (excl. appropriations) = \$ 31.9 million Pure nonrecurring tax cuts in FY 2024-25= \$601.4 million Pure nonrecurring tax cuts after FY 2024-25= \$250.0 million \$883.3 million								

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill expands ad valorem tax benefits for renewable energy source devices to include facilities used to capture and convert biogas to renewable energy source devices, and the bill clarifies when a construction work in progress is deemed substantially completed for property owned by an electric utility; however, an exemption may apply if those provisions have an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the Department of Revenue rulemaking authority to implement the creation of the Individuals with Unique Abilities corporate income tax credit. The bill also provides the Department of Revenue emergency rulemaking authority to implement several provisions of the act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On February 14, 2024, the Ways & Means Committee adopted a technical amendment to more closely align the bill language with current law regarding local tax referenda.

On February 20, 2024, the Appropriations Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment creates s. 624.5108, F.S., which does the following:

- Requires insurers to give homestead property owners a deduction on their residential property insurance premiums in the amount of 1.75% of the policyholder's total premium. This applies to policies with coverage for a 12-month period and effective after October 1, 2024 and before September 30, 2025.
- Allows a policyholder entitled to the deduction who did not receive a deduction to apply to his or her insurer for a refund in the amount of the deduction to which they were entitled by providing evidence that the property in question was a homestead property.
- Allows insurers to take a credit against their insurance premium tax liability in an amount equal to the amount they deducted from policyholders' policies for that year. This tax credit can be carried forward for a period of 5 years if the insurer has insufficient liability in a given taxable year to fully use the credit.
- Authorizes the Department of Revenue to examine and audit insurance companies giving deductions. The department can ask the Office of Insurance Regulation for assistance with technical audits.
- Provides that in addition to its existing authority, the Office of Insurance Regulation is authorized to examine the information reported by an insurer and take corrective measures if an insurer is not in compliance.
- Requires insurers to quarterly and annually report the number of policies receiving deductions and the total amount of deductions provided by the insurer.
- Authorizes the Department of Revenue and the Office of Insurance Regulation to adopt emergency rules.

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