HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 7063 PCB WMC 23-02 Taxation
SPONSOR(S): Ways & Means Committee, McClain
TIED BILLS: **IDEN./SIM. BILLS:**

FINAL HOUSE FLOOR ACTION: 114 **Y's** 0 **N's** **GOVERNOR'S ACTION:** Pending

SUMMARY ANALYSIS

HB 7063 passed the House on April 27, 2023. The bill was amended in the Senate on May 4, 2023, and returned to the House. The House concurred in the Senate amendment and subsequently passed the bill as amended on May 5, 2023. The bill provides the following tax reductions and other tax-related modifications.

For sales tax, the bill includes permanent exemptions for: specified baby and toddler products and clothes, adult incontinence products, oral hygiene products, machinery and equipment to produce renewable natural gas, certain agricultural fencing, firearm safety devices, and small private investigative agency services. The bill provides the following temporary exemptions: a one-year exemption for certain ENERGY STAR certified appliances; a one-year exemption for gas ranges and cooktops; and an estimated 8-month reduction in the business rent tax from 5.5% to 4.5%. The bill also has the following tax holidays: two 14-day "back-to-school" tax holidays; two 14-day "disaster preparedness" tax holidays; a three-month "Freedom Summer" tax holiday for specified recreational items and activities; and a seven-day "Tool Time" tax holiday for tools and equipment commonly used in skilled trades.

For property taxes, the bill makes several changes to expand, clarify, or correct provisions related to homestead benefits for permanently and totally disabled veterans, first responders, and surviving spouses of either; allows an educational facility to qualify for an exemption if it has a bona fide 98-year lease with nominal payments or has received an educational exemption for ten prior consecutive years; amends the property value and percentage thresholds which limit a property appraiser's authority to appeal certain decisions of the value adjustment board; and makes technical and clarifying changes to several sections of existing law.

For corporate income tax, the bill adopts the Internal Revenue Code in effect on January 1, 2023; creates temporary tax credits for homebuilders that purchase and install residential graywater systems and for companies that purchase machinery and equipment for use in the production of human breast milk fortifiers; and increases the annual cap for the Voluntary Cleanup Tax Credit ("Brownfields") Program to $35 million.

Additionally, the bill delays the imposition of natural gas fuel taxes; revises criteria for counties that may reimburse certain expenses from revenues received by a tourist development tax; requires that all tourist development taxes be enacted by referendum; requires expiring local taxes to be renewed at a general election within 48 months of the renewal date; exempts certain small business loans from duplicative documentary stamp and intangible tax treatment; authorizes the local food and beverage sales tax in Miami-Dade county to be levied in cities that impose the municipal resort tax if approved by referendum; clarifies the calculation of a certain penalty as related to the Florida Tax Credit Program, New Worlds Reading Initiative, and Strong Families Tax Credit programs; increases the annual cap of the Strong Families Tax Credit to $20 million; distributes $27.5 million for 2 fiscal years to promote the breeding and racing of horses in Florida; creates a credit against pari-mutuel taxes for certain federal assessments related to horseracing safety; and prohibits special assessments on agricultural lands.

The total state and local government impact of the bill in Fiscal Year 2023-24 is estimated to be -$1,161.1 million (-$303 million recurring). See Fiscal Comments section for details.

Subject to the Governor's veto powers, the effective date of the bill is July 1, 2023, except as otherwise provided.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Sales Tax

Florida's sales and use tax is a six percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals[1], unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's General Revenue (projected 75.5 percent for FY 2022-23)[2] 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.[3] 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.[4]

Permanent Sales Tax Exemptions

Baby and Toddler Products

Current Situation

Florida is home to more than one million children under age five, and welcomes nearly 600 newborns each day.[5]

The Legislature previously enacted sales tax exemptions for children's clothing and shoes, and children's diapers, both from July 1, 2022 through June 30, 2023.[6] Aside from this temporary exemption, the retail sale of most baby and toddler essentials are subject to sales tax in Florida.

Effect of Proposed Changes

The bill provides a permanent exemption from sales tax on the retail sale of the following baby and toddler products:

- Baby cribs, including baby playpens and baby play yards;
- Baby strollers;

[1] Commercial real estate rentals are subject to a 5.5% sales tax pursuant to s. 212.031(1)(c), F.S.
[2] The Office of Economic and Demographic Research, *General Revenue Consensus Estimating Conference Comparison Report,* p. 1, available at http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf (last visited May 10, 2023).
[3] Office of Economic and Demographic Research, *Florida Local Government Financial Information Handbook 2022*, p. 55, available at http://edr.state.fl.us/Content/local-government/reports/lgfih22.pdf (last visited May 10, 2023).
[4] *Id.*
[5] Econographic News: Florida Vital Statistics, available at http://edr.state.fl.us/Content/population-demographics/reports/econographicnews-2022-v2.pdf (last visited May 10, 2023);
Florida Population by Age Group, available at http://edr.state.fl.us/content/population-demographics/data/pop_census_day.pdf (last visited May 10, 2023).
[6] Chapter 2022-156, L.O.F.

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

Oral Hygiene Products

Current Situation

Certain medical products and supplies are exempt from sales tax, including supplies or medicine dispensed according to a prescription and other non-prescription common household remedies used in the cure, mitigation, treatment, or prevention of illness or disease.[7] Alcohol wipes, bandages, and gauze are examples of common household remedies exempt from sales tax. Cosmetics[8] and toilet articles[9] are specifically excluded from the common household remedy exemption, notwithstanding the presence of medicinal ingredients therein.

The Department of Business and Professional Regulation (DBPR) is responsible for prescribing and approving a list of common household remedies that qualify for the exemption, which is certified by DOR from time to time and included in the rules promulgated by DOR.[10]

Certain oral hygiene products, such as toothpaste and mouthwash, are considered cosmetics and toilet articles and are therefore excluded from the common household remedy exemption. Cosmetics and toilet articles are only exempt when dispensed according to an individual prescription or prescriptions written by a licensed practitioner authorized to prescribe medicinal drugs.

Effect of Proposed Changes

The bill provides a permanent exemption from sales tax on the retail sale of oral hygiene products. Oral hygiene products included in the exemption are:

[7] Section 212.08(2)(a), F.S.
[8] Section 212.08(2)(b)2., F.S., defines "cosmetics" as articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance and also means articles intended for use as a compound of any such articles, including, but not limited to, cold creams, suntan lotions, makeup, and body lotions.
[9] Section 212.08(2)(b)3., F.S., defines "toilet articles" as any article advertised or held out for sale for grooming purposes and those articles that are customarily used for grooming purposes, regardless of the name by which they may be known, including, but not limited to, soap, toothpaste, hair spray, shaving products, colognes, perfumes, shampoo, deodorant, and mouthwash.
[10] Form DR-46NT, Nontaxable Medical Items and General Grocery List (R. 01/22), available at https://floridarevenue.com/Forms_library/current/dr46nt.pdf (last visited May 10, 2023).

- Electric and manual toothbrushes;
- Toothpaste;
- Dental floss;
- Dental picks;
- Oral irrigators; and
- Mouthwash.

Adult Incontinence Products

Current Situation

Adult diapers and incontinence products are not currently included in the list of medical products and supplies which are exempt from sales tax in Florida, however, diapers for children and adults have been temporarily exempted during certain sales tax holidays.[11]

Of the 45 states that impose a sales tax,[12] California, Colorado, Connecticut, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Minnesota, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia do not subject the sale of diapers to state sales tax.[13] North Dakota exempts diapers used for incontinence, but not baby diapers.[14]

Effect of Proposed Changes

The bill provides a permanent exemption from sales tax on the retail sale of adult diapers, incontinence undergarments, incontinence pads, and incontinence liners for human use.

Fencing

Current Situation

Florida exempts from sales tax many items used for agricultural purposes, including fertilizers, animal health products, portable containers, certain generators, bailing wire and twine, etc.[15] Additionally, in 2022 the legislature amended s. 212.08(5)(a), F.S., to exempt from sales tax: hog wire and barbed wire fencing, including gates and materials used to construct or repair such fencing, used in agricultural production on lands classified as agricultural under s. 193.461, F.S.[16]

Currently, materials used to construct or repair permanent or temporary fencing used to contain cattle, including wooden fencing, electric fencing, and corral panels, are not exempt from sales tax.

Effect of Proposed Changes

The bill expands the exemption under s. 212.08(5)(a), F.S., to include materials used to construct or repair permanent or temporary fencing used to contain cattle and includes wooden fencing, electric fencing, and corral panels.

Renewable Natural Gas Machinery and Equipment

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[11] *See, e.g.*, Department of Revenue, 2022 Back-to-School Sales Tax Holiday Tax Information Publication, p.4, available at https://floridarevenue.com/taxes/tips/Documents/TIP_22A01-08.pdf (last visited May 10, 2023).
[12] Alaska, Delaware, Montana, New Hampshire, and Oregon do not levy a state sales tax. See Tax Foundation, State and Local Sales Tax Rates (2020), available at https://files.taxfoundation.org/20200115132659/State-and-Local-Sales-Tax-Rates2020.pdf (last visited May 10, 2023).
[13] National Diaper Bank Network, Sales Tax on Diaper Purchases by State, available at https://nationaldiaperbanknetwork.org/diaper-tax/ (last visited May 10, 2023).
[14] *Id.*
[15] Section 212.08(5)(a), F.S.
[16] Chapter 2022-97, L.O.F., section 23.

Current Situation

Renewable natural gas is made from biogas (the gaseous product of the decomposition of organic matter) that has been processed to purity standards and can be used as transportation fuel or liquefied natural gas. However, to fuel vehicles, the biogas must be processed to a higher purity standard resulting in the renewable gas having a higher content of methane than raw biogas, which makes it comparable to conventional natural gas. This makes the renewable natural gas suitable in applications that require pipeline-quality gas such as vehicles.[17]

Three main sources of biogas are landfills, livestock operations and wastewater treatment sites. In landfills, the digestion process takes place in the ground rather than in an anaerobic digester, which is a series of processes in which microorganisms break down biodegradable material in the absence of oxygen.[18] As of 2021, there were 548 operational landfill gas projects in the country. At livestock operations, animal manure is collected and run through an anaerobic digester to stabilize and optimize methane production. The result is biogas that can be processed into renewable natural gas and used to fuel gas vehicles or produce electricity. As of 2022, there are 331 livestock farms utilizing anaerobic digester systems in the country, including three in Florida.[19] At wastewater treatment plants, biogas is produced by digesting the solids removed in the wastewater treatment process. Approximately 1,300 wastewater treatment plants in the country have anaerobic digesters.[20]

Effect of Proposed Changes

The bill provides a permanent exemption from sales tax for machinery and equipment used at a fixed location for the production, storage, transportation, compression, or blending of renewable natural gas.

The bill defines "renewable natural gas" as an anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater, which may be used as transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline.

The bill provides that purchasers of machinery and equipment qualifying for this exemption must furnish the vendor with an affidavit stating that the item or items to be exempted are for the production, storage, transportation, compression, or blending of renewable natural gas. Purchasers with self-accrual authority[21] are not required to provide an affidavit; however, the purchaser must maintain all documentation necessary to prove the exempt status of purchases.

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[17] United States Department of Energy, Alternative Fuels Data Center, Renewable Natural Gas Production, at https://afdc.energy.gov/fuels/natural_gas_renewable.html (last visited May 10, 2023).
[18] *Id.*
[19] United States Environmental Protection Agency, Livestock Anaerobic Digester Database, at https://www.epa.gov/agstar/livestock-anaerobic-digester-database (last visited May 10, 2023).
[20] United States Department of Energy, Alternative Fuels Data Center, Renewable Natural Gas Production, at https://afdc.energy.gov/fuels/natural_gas_renewable.html (last visited May 10, 2023).

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

A person furnishing a false affidavit to the vendor in order to evade payment of the sales tax is liable for payment of the tax plus a mandatory penalty of 200 percent of the tax. A violation of this section is a third-degree felony.[22]

Firearm Safety Devices

Current Situation

The federal government defines "secure gun storage or safety device" as "a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device"[23] or "a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is deisgned to be unlocked only by means of a key, a combination, or other similar means."[24]

The United States Department of Justice, pursuant to federal law,[25] requires that federal firearms licensees that sell firearms to the general public must certify that they have an available secure gun storage or safety device.[26]

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

Effect of Proposed Changes

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

Private Investigative Services

Current Situation

Charges for certain detective, burglar protection, and other protection services listed under specific North American Industry Classification System (NAICS) numbers, including investigative services, security guards and patrol services, armored car services, and security systems services, except locksmiths, are currently subject to sales tax.[27]

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[22] Section 212.085, F.S. A third-degree felony is generally punishable by not more than five years in state prison and a fine not exceeding $5,000. Sections 775.082 and 775.083, F.S.
[23] 18 U.S.C. 921(a)(34)(A)
[24] 18 U.S.C. 921(a)(34)(C)
[25] 18 U.S.C. 922(z)
[26] *See*, Justice Department Announces New Rule to Help Enhance Safe and Secure Storage of Firearms, available at https://www.justice.gov/opa/pr/justice-department-announces-new-rule-help-enhance-safe-and-secure-storage-firearms-publishes (last visited May 9, 2023).
[27] Section 212.05(1)(i)1., F.S.

The Division of Licensing within the Department of Agriculture and Consumer Services (DACS) oversees the regulation of licensing of private investigative services.[28] As of April 30, 2023, the Division has issued 2,747 private investigative agency licenses and 7,317 private investigator licenses.[29]

A "private investigator" is defined as any individual who, for consideration, advertises as providing or performs private investigations.[30] A "private investigative agency" means any person who, for consideration, advertises as providing or is engaged in the business of furnishing privation investigations.[31] "Private investigation" is defined as an investigation to obtain information on any of the following matters:

- Crime or wrongs done or threatened against the United States or any state or territory of the United States, when operating under express written authority of the governmental official responsible for authorizing such investigation.
- The identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons.
- The credibility of witnesses or other persons.
- The whereabouts of missing persons, owners of unclaimed property or escheated property, or heirs to estates.
- The location or recovery of lost or stolen property.
- The causes and origin of, or responsibility for, fires, libels, slanders, losses, accidents, damage, or injuries to real or personal property.
- The business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the preparation thereof.[32]

Applicants for licensure as a private investigator must complete and submit an application to DACS and meet certain requirements. An applicant must:

- Be at least 18 years old;
- Be one of the following:
    - A United States citizen,
    - A permanent legal resident, or
    - A holder of a work visa from the United States Citizenship and Immigration Service;
- Have no disqualifying criminal history;
- Be of good moral character;
- Have no history of:
    - Mental illness,
    - Alcohol abuse, or
    - Substance abuse; and
- Submit an application with certain identifying information;[33] and
- Complete 40 hours of required training and submit proof thereof to DACS.[34]

Any person, firm, company, partnership, or corporation which engages in business as a private investigative agency shall have a Class "A" license.[35] To become a private investigator in Florida, a Class "C" Private Investigator license is required.[36] An applicant for the Class "C" Private Investigator license must have two years of lawfully gained, verifiable, full-time experience to qualify for the

[28] Chapter 493, F.S.
[29] Department of Agriculture and Consumer Services, *Division of Licensing Statistical Reports* (as of April 30, 2023), *available at* https://www.fdacs.gov/Divisions-Offices/Licensing/Statistical-Reports (last visited May 10, 2023).
[30] Section 493.6101(16), F.S.
[31] Section 493.6101(15), F.S.
[32] Section 493.6101(17), F.S.
[33] Section 493.6105, F.S.
[34] Section 493.6303(4)(a), F.S.
[35] Section 493.6201(1), F.S.
[36] Section 493.6201(5), F.S.

license.[37] In order to carry a firearm in the course of performing such duties, the licensee must also obtain a Class "G" Statewide Firearm license in addition to the Class "C" Private Investigator license.[38]

Effect of Proposed Changes

The bill exempts charges for investigative services provided by a "small private investigative agency" from the sales and use tax.

The bill defines the term "small private investigative agency" as a private investigator licensed as under s. 493.6201, F.S., that:

- Employs three or fewer full-time or part-time employees, including those performing services pursuant to an employment leasing arrangement as defined in s. 468.520(4), F.S., and
- During the previous calendar year, performed private investigation services otherwise taxable under ch. 212, F.S., in which the charges for the services performed were less than $150,000 for all its businesses related through common ownership.

The exemption may not apply in the first calendar year that an agency conducts sales of services taxable under ch. 212, F.S.

Temporary Sales Tax Exemptions

Energy Star Appliances

Current Situation

The federal government, through the Environmental Protection Agency, certifies a number of products for their efficiency under the ENERGY STAR program.[39] Products in the ENERGY STAR program are normally affixed with a label noting their certification under the applicable program.[40]

In 2006, Florida provided a one-week sales tax exemption on specified energy efficient products priced under $1,500 which met or exceeded the requirements of the federal ENERGY STAR program and were sold for noncommercial home or personal use.[41]

In 2014, Florida provided a one-week sales tax exemption on the first $1,500 of the sales price of specified new ENERGY STAR products or WaterSense[42] products.[43] A person was limited to a single purchase for each specific type of item listed above with a sales price over $500 during the holiday. A second purchase of the same type of product was subject to tax on the entire price. There was no requirement that the purchase be for personal use, or any specific prohibition against purchases for commercial use beyond the limit on the number of items that could be purchased without paying tax.

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[37] Section 493.6203, F.S.
[38] Section 493.6115(2), F.S.
[39] Information about this program is available at https://www.energystar.gov/about (last visited May 10, 2023).
[40] See https://www.energystar.gov/products for more information about labeling and qualifying products (last visited May 10, 2023).
[41] Section 6, Ch. 2006-230, L.O.F. The items exempted were refrigerators, dishwashers, clothes washers, air conditioners, ceiling fans, light bulbs, dehumidifiers, and thermostats.
[42] The federal WaterSense program certifies items that are water-efficient. Information about this program is available at https://www.epa.gov/watersense (last visited May 10, 2023)
[43] Section 21, Ch. 2014-38, L.O.F. The ENERGY STAR items exempted were room air conditioners, air purifiers, ceiling fans, clothes washers, clothes dryers, dehumidifiers, dishwashers, freezers, refrigerators, water heaters, swimming pool pumps, and light bulbs. The WaterSense items exempted were bathroom sink faucets, faucet accessories, high-efficiency toilets and urinals, showerheads, and weather or sensor-based irrigation controllers.

In 2022, Florida provided a one-year sales tax exemption on the retail sale for noncommercial use of ENERGY STAR certified refrigerators selling for $3,000 or less, and ENERGY STAR certified water heaters, and clothes washers or dryers, selling for $1,500 or less.[44]

Effect of Proposed Changes

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

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

Gas Ranges and Cooktops

Current Situation

The U.S. Energy Information Administration estimates that eight percent of Florida households use natural gas cooking appliances.[45] On average, natural gas is cheaper than electricity.[46] Additionally, gas ranges and cooktops allow for rapid temperature changes while cooking.[47]

Currently, the retail sale of gas ranges and cooktops is subject to sales tax in Florida.

Effect of Proposed Changes

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

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.[48] Sales tax is due at the rate of 5.5 percent on the total rent paid for the right to use or occupy commercial real property. Local option sales surtaxes can also apply.[49] 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

[44] Section 49, Ch. 2022-97, L.O.F.
[45] U.S. Energy Information Administration, Highlights for Appliances in U.S. Homes by State, 2020, available at https://www.eia.gov/consumption/residential/data/2020/state/pdf/State%20Appliances.pdf (last visited May 10, 2023).
[46] U.S. Energy Information Administration, Florida State Energy Profile, available at https://www.eia.gov/state/print.php?sid=FL (last visited May 10, 2023).
[47] Whirlpool, Gas vs. Electric Stoves: Which is Best?, available at https://www.whirlpool.com/blog/kitchen/electric-vs-gas-ranges.html (last visited May 10, 2023).
[48] Chapter 1969-222, Laws of Fla.
[49] Section 212.031, F.S., and Rule 12A-1.070, F.A.C.

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% to 2%, effective the first day of the second month after the Unemployment Compensation Trust Fund reaches its pre-pandemic balance, which is estimated to happen in May 2024, resulting in the business rent tax rate lowering to 2% beginning August 1, 2024.[50]

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

Effect of Proposed Changes

The bill reduces the business rent tax from 5.5% to 4.5%, effective December 1, 2023.

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-one times since 1998. The length of the exemption periods has varied from three to ten 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.

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

[50] The Office of Economic & Demographic Research, *Unemployment Compensation Trust Fund Forecast*, available at http://edr.state.fl.us/Content/conferences/unemployment-compensation-trust-fund/March2023ForecastSummary.pdf (last visited May 10, 2023)

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

Effect of Proposed Changes

The bill provides for a sales tax holiday from July 24, 2023, through August 6, 2023, and from January 1, 2024 through January 14, 2024. During the holiday, the following items that cost $100 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an "article of wearing apparel intended to be worn on or about the human body," but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and

- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

The bill also exempts various "school supplies" that cost $50 or less per item 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, exempted are personal computers and related accessories with a sales price of $1,500 or less which are purchased for noncommercial home or personal use. This includes tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted.

The "back-to-school" sales tax holiday applies at the option of the dealer if less than five percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that are exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by July 17, 2023, for the tax holiday beginning July 24, 2023, and by December 23, 2023, for the tax holiday beginning January 1, 2024, the dealer must notify DOR in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business.

Disaster Preparedness Sales Tax Holiday

Current Situation

The Florida Office of Insurance Regulation estimated insured losses of over $14.4 billion due to Hurricanes Ian and Nicole in 2022,[51] $9.1 billion due to Hurricane Michael in 2018,[52] $20.7 billion due to Hurricane Irma in 2017, [53] $1.3 billion due to hurricanes Hermine and Mathew in 2016,[54] $25 billion due to four hurricanes in 2004, and $10.8 billion due to four hurricanes in 2005.[55] Tropical Storm Fay was estimated to have resulted in $242 million of damage in 2008.[56] 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.[57]

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

Dates	Length	TAX EXEMPTION THRESHOLDS							
		Reusable Ice	Light Source	Fuel Containe-rs	Batteries	Coolers and Ice Chests	Radios	Tie down tools and sheeting	Generato-rs
May 21-June 1, 2006[58]	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[59]	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[60]	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[61]	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[62]	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

[51] Florida Office of Insurance Regulation, Catastrophe Report, available at: https://www.floir.com/home/ian($13.9 billion) and https://www.floir.com/home/nicole ($506.7 million) (last visited April 6, 2023).
[52] Florida Office of Insurance Regulation, Catastrophe Report, available at: https://floir.com/Office/HurricaneSeason/HurricaneMichaelClaimsData.aspx(last visited April 6, 2023).
[53] Florida Office of Insurance Regulation, Catastrophe Report, available at: https://www.floir.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx (last visited April 6, 2023).
[54] 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 April 6, 2023).
[55] Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: http://www.floir.com/siteDocuments/HurricaneSummary20042005.pdf (last visited May 10, 2023).
[56] Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: http://www.floir.com/siteDocuments/HurricaneSummary2008.pdf (last visited May 10, 2023).
[57] Florida Division of Emergency Management, *Disaster Supply Kit Checklist*, available at: https://www.floridadisaster.org/planprepare/hurricane-supply-checklist/ (last visited May 10, 2023).
[58] 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 fold together for $75 or less.
[59] *Id.*
[60] 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 (last visited May 9, 2023).
[61] This holiday also included portable power banks selling for $60 or less.
[62] 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).

Effect of Proposed Changes

The bill provides for sales tax holidays from May 27, 2023, through June 9, 2023, and from August 26, 2023, through September 8, 2023, 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;
- 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.
- Common household consumable items selling for $30 or less. For purposes of this exemption, common household consumable items mean:
    - The following laundry detergent and supplies: powder, liquid, or pod detergent, fabric softener, dryer sheets, stain removers, and bleach;
    - Toilet paper;
    - Paper towels;
    - Paper napkins and tissues;
    - Facial tissues;
    - Hand soap, bar soap and body wash;
    - Sunscreen and sunblock;
    - Dish soap and detergents, including powder, liquid, or pod detergents or rinse agents that can be used in dishwashers;
    - Cleaning or disinfecting wipes and sprays;

- Hand sanitizer; and
- Trash bags.

Freedom Summer 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.

Effect of Proposed Changes

The bill provides for a 14-week sales tax holiday from May 29, 2023, through September 4, 2023, for specified admissions and items related to recreational activities. During the sales tax holiday, the following admissions, if purchased during this week, are exempt from the state sales tax and county discretionary sales surtaxes:[63]

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

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

- Boating and Water Activity Supplies
  - Life ackets, 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[64]
  - Rods and reels selling for $75 or less, if sold individually, or selling for $150 or less if sold as a set;

[63] 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.
[64] The exemption for fishing supplies does not apply to supplies used for commercial fishing purposes.

    - 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 repellant 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
- Children's Athletic Equipment
    - A consumer product, selling for $100 or less, that is designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when child engages in athletic activity.
- Children's Toys
    - A consumer product, selling for $75 or less, designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays.

Skilled Worker "Tool Time" Sales Tax Holiday

Current Situation

According to the Florida Department of Economic Opportunity, a number of skilled trade occupations are in high demand.[65] The cost of educational materials, tools, and other items can be a barrier to education, training, and employment for skilled trade workers.

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

Effect of Proposed Changes

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

- Hand tools selling for $50 or less;
- Power tools selling for $300 or less;
- Power tool batteries selling for $150 or less;
- Work gloves selling for $25 or less;
- Safety glasses selling for $50 or less;
- Protective coveralls selling for $50 or less;
- Work boots selling for $175 or less;
- Tool belts selling for $100 or less;
- Duffle/tote bags selling for $50 or less;

[65] Regional Demand Occupations List, available at: http://www.floridajobs.org/workforce-statistics/publications-and-reports/labormarket-information-reports/regional-demand-occupations-list (last visited March 1, 2023)

- 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.

Property Tax

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,[66] 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.[67]

The property appraiser annually determines the "just value"[68] of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[69] Tax bills are mailed in November of each year, and payment is due by March 31.[70]

The tax is based on the taxable value of property as of January 1 of each year.[71]

The Florida Constitution limits the Legislature's authority to allow for property valuations at less than just value, unless expressly authorized.[72] Federal, state, and county governments are immune from taxation but municipalities are not subdivisions of the state and may be subject to taxation absent an express exemption.[73] The Florida Constitution grants property tax relief in the form of certain valuation

[66] Article VII, s. 1(a), Fla. Const.
[67] Article VII, s. 9., Fla. Const.
[68] Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. (Article 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).
[69] Section. 192.001(2) and (16), F.S.
[70] Sections 197.322 and 197.333, F.S.
[71] Section 192.042, F.S.
[72] Article VII, s. 4, Fla. Const.
[73] "Exemption" presupposes the existence of a power to tax, while "immunity" implies the absence of it. See *Turner v. Florida State Fair Authority*, 974 So. 2d 470 (Fla. 2d DCA 2008); *Dept. of Revenue v. Gainesville*, 918 So. 2d 250, 257-59 (Fla. 2005).

differentials,[74] assessment limitations,[75] and exemptions,[76] including the exemptions relating to municipalities,[77] exemptions for certain veterans[78] and first responders, and exemptions for educational, literary, scientific, religious or charitable purposes.[79]

Refund for Residential Improvements Rendered Uninhabitable by Catastrophic Events

Current Situation

In the regular 2022 legislative session, the Legislature passed a bill creating s. 197.319, F.S., to provide for the prorated refund of property taxes on residential improvements on homestead properties rendered uninhabitable by a catastrophic event.[80] The relief created by s. 197.319, F.S., is available solely as a refund of taxes paid and does not waive the requirement of timely payment of taxes.[81] If a residential property is rendered uninhabitable for 30 days or more by a catastrophic event, the property owner may be refunded a portion of their property taxes for the time the property was uninhabitable.[82] The property owner must submit an application for refund to the property appraiser who will then investigate the statements contained therein and determine if the applicant qualifies for a refund.[83] If the applicant qualifies, the tax collector will calculate the refund owed based off of the days the property was rendered uninhabitable.[84]

Effect of Proposed Changes

The bill makes minor changes to s. 197.319, F.S., to clarify and streamline the process for a prorated refund of property taxes when a homestead property has been rendered uninhabitable for more than 30 days by a catastrophic event.

Property Appraiser Appeals of Value Adjustment Board Decisions

Current Situation

The property appraiser may appeal a decision of the Value Adjustment Board ("VAB") in circuit court if one of the following criteria are met:

- The property appraiser determines and affirmatively asserts in any legal proceeding that there is a specific constitutional or statutory violation, or a specific violation of administrative rules, in the decision of the VAB;
- There is a variance between the property appraiser's assessed value and the VAB's decision regarding assessed value in excess of the following:
  - 15 percent variance from any assessment of $50,000 or less;
  - 10 percent variance from any assessment in excess of $50,000 but not in excess of $500,000;
  - 7.5 percent variance from any assessment in excess of $500,000 but not in excess of $1 million; or
  - 5 percent variance from any assessment in excess of $1 million; or

[74] Article VII, s. 4, Fla. Const., authorizes valuation differentials, which are based on character or use of property.
[75] Article VII, s. 4(c), Fla. Const., for example, authorizes the "Save Our Homes" property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. .
[76] Article VII, s. 3, Fla. Const., provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.
[77] Article VII, s. 3, Fla. Const.
[78] Article VII, s. 6, Fla. Const.
[79] Article VII, s. 3(a), Fla. Const.
[80] Chapter 2022-97, s. 14, L.O.F.
[81] Section 197.319(2)(a), F.S.
[82] Section 197.319(2), F.S.
[83] Section 197.319(2)(d), F.S.
[84] Section 197.319(3), F.S.

- There is an assertion by the property appraiser to the Department of Revenue that there exists a consistent and continuous violation of the intent of the law or administrative rules by the VAB in its decisions.[85]

Effect of Proposed Changes

The bill amends s. 194.036, F.S., to adjust the variance between initial assessment and VAB decision required to allow a property appraiser to appeal certain decisions of the VAB in circuit court. The adjusted thresholds provided by the bill are as follows:

- 20 percent variance from any assessment of $250,000 or less;
- 15 percent variance from any assessment in excess of $250,000 but not in excess of $1,000,000;
- 10 percent variance from any assessment in excess of $1,000,000 but not in excess of $2.5 million; or
- 5 percent variance from any assessment in excess of $2.5 million.

Local Government – 2022 Hurricane Refund Reimbursement

Current Situation

During the 2022 Special Session A, the legislature created s. 197.3181, F.S., to provide for the prorated refund of timely paid property taxes for residential properties rendered uninhabitable for at least 30 days by Hurricane Ian or Hurricane Nicole during the 2022 calendar year. If a residential property is rendered uninhabitable for at least 30 days, the property owner may be refunded a portion of their property taxes for the time the property was uninhabitable.

Effect of Proposed Changes

The bill authorizes the Department of Revenue to issue reimbursements to counties that were required to refund property taxes to taxpayers whose residential property was rendered uninhabitable by Hurricanes Ian or Nicole. The bill appropriates $35 million to the Department of Revenue from which the department will issue the reimbursements. The department of is authorized to adopt rules to implement this section of the bill.

Property Tax Exemptions for Veterans, First Responders, and Surviving Spouses

Background

The Florida Constitution provides several property tax exemptions for disabled veterans and first responders and their surviving spouses.[86] These include, among others, exemptions for the following persons:

- A veteran with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead.[87]
- A first responder with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead.[88]
- The unremarried surviving spouse of a veteran who died while on active duty or first responder who died in the line of duty is entitled to a complete exemption for property owned and used as a homestead if the veteran or first responder was a permanent resident of Florida on the day he or she died.[89]

[85] Section 194.036, F.S.
[86] Article VII, s. 6(f), Fla. Const.
[87] Article VII, s. 3(b), Fla. Const.; ss. 196.081 and 196.102, F.S.
[88] Section 196.102, F.S.
[89] Section 196.081(4) and (6), F.S.

Exemption for Permanently and Totally Disabled Veterans and Surviving Spouses

Current Situation

The homestead property of a veteran who was honorably discharged with a service-connected total and permanent disability is exempt from taxation.[90] To qualify for this exemption, the veteran must be a permanent resident of the state on January 1 of the tax year for which exemption is being claimed or must have been a permanent resident of this state on January 1 of the year the veteran died.[91] If the veteran predeceases their spouse, the spouse may continue to receive the exemption as long as the property remains the homestead property of the spouse and the spouse is unmarried.[92]

The presentation of a letter of total and permanent disability from the United States Government or United States Department of Veterans Affairs by a veteran or their spouse to the property appraiser is prima facie evidence of entitlement to the exemption.[93] A veteran may apply for the exemption before receiving documentation from the United States Government or the United States Department of Veterans Affairs.[94] When the property appraiser receives the documentation, the exemption is granted as of the date of the original application, with excess taxes paid refunded (subject to the four-year period of limitation under s. 197.182(1)(e), F.S.[95]

Section 196.081, F.S., provides that a veteran who was honorably discharged with a service-connected total and permanent disability may apply for this homestead property exemption in the current tax year for a property acquired between January 1 and November 1 of the tax year if the veteran had received the exemption on another property in the immediately preceding tax year.[96] The veteran will receive the exemption in the form of a refund, prorated from the date of property transfer, if the veteran applies for and receives the exemption on the newly acquired property in the following tax year.[97]

If the totally and permanently disabled veteran predeceases their spouse, the tax exemption will carry over to the surviving spouse if the surviving spouse has legal or beneficial title to the property and uses it as a homestead, and does not remarry.[98] If the surviving spouse sells the property, the exemption amount for the sold property from the most recent tax roll may be transferred to the new property so long as the new property is used as a homestead by the surviving spouse and they do not remarry.[99]

Effect of Proposed Changes

Effective for the 2024 tax roll, the bill removes the requirement that a totally and permanently disabled veteran must have had the exemption on another property in the same year in order to qualify for the prorated refund of property taxes on newly acquired property. This will allow certain totally and permanently disabled veterans who were not owners of homestead property to receive the benefit of the exemption from property taxes from the date of property acquisition in the form of a refund, instead of having to wait until the following January 1 to receive the exemption. However, the veteran must have qualified as having a service-connected total and permanent disability as of January 1 of the year the new property was acquired.

Exemption for the Surviving Spouse of a Veterans killed while on active duty or First Responders killed in the line of duty

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[90] Section 196.081(1), F.S.
[91] Section 196.081(1)(a), F.S.
[92] Section 196.081(3), F.S.
[93] Section 196.081(2), F.S.
[94] Section 196.081(5), F.S.
[95] Section 196.081(5), F.S.
[96] Section 196.081(1)(b), F.S.
[97] Section 196.081(1)(b), F.S.
[98] Section 196.081(3), F.S.
[99] Section 196.081(3), F.S.

Current Situation

Section 196.081(4), F.S., provides in pertinent part:

> (4) Any real estate that is owned and used as a homestead by the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the veteran who died from service-connected causes while on active duty is exempt from taxation **if the veteran was a permanent resident of this state on January 1 of the year in which the veteran died**. (emphasis supplied)

In Dep't of Revenue v. Bell, 290 So. 3d 1060 (Fla. 2d Dist. Ct. App. 2020), the Court found the provision in bold above to be invalid and unenforceable under the State Constitution.

Section 196.081(6), F.S., provides in pertinent part:

> (6) Any real estate that is owned and used as a homestead by the surviving spouse of a first responder who died in the line of duty while employed by the state or any political subdivision of the state, including authorities and special districts, and for whom a letter from the state or appropriate political subdivision of the state, or other authority or special district, has been issued which legally recognizes and certifies that the first responder died in the line of duty while employed as a first responder is exempt from taxation **if the first responder and his or her surviving spouse were permanent residents of this state on January 1 of the year in which the first responder died**. (emphasis supplied)

Both of these exemptions are authorized by Article VII, Section 6(3)(f) of the Florida Constitution, which has no residency requirement.

Effect of Proposed Changes

The bill amends s. 196.081, F.S., to remove the permanent residency requirement ruled unconstitutional by the Second District Court of Appeals. The bill also removes the permanent residency requirement for a related provision for first responders. The surviving spouses of both veterans and first responders killed while on active duty will qualify for the exemption even if the deceased spouse was not a resident of Florida on January 1 of the year of his or her death.

Exemptions for Certain First Responders and Surviving Spouses

Current Situation

The Florida Constitution defines a "first responder" as "a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic,"[100] while the statute implementing the amendment defines a "first responder" as "a law enforcement officer or correctional officer as defined in s. 943.10, a firefighter as defined in s. 633.102, or an emergency medical technician or a paramedic as defined in s. 401.23 who is a full-time paid employee, part-time paid employee, or unpaid volunteer."[101] The definition of "law enforcement officer" provided in s. 943.10, F.S., does not include federal law enforcement officers.

Totally and Permanently Disabled First Responders

[100] Article VII, s. 6(e), Fla. Const.
[101] Section 196.081(6)(c1., F.S.

The Florida Constitution authorizes the Legislature to provide for a full exemption from ad valorem taxes for first responders who are totally and permanently disabled as a result of an injury or injuries sustained in the line of duty.[102] This exemption carries over to the benefit of the surviving spouse as long as the spouse holds legal or beneficial title to the homestead, resides permanently thereon, and does not remarry.[103] In order to qualify for the exemption, the first responder must provide documentation to the property appraiser supporting their claim of total and permanent disability.[104] These documents may include documentation from the Social Security Administration stating the applicant is totally and permanently disabled, a certificate from the organization that employed the applicant as a first responder at the time of the injury or injuries containing the details of the injury that caused the disability, and a certification from a physician certifying the total and permanent disability of the applicant. This exemption is currently available to first responders as the term is defined in 196.081, F.S., meaning that it is only available to those first responders who were employed by the state or any political subdivision thereof at the time of their injury or injuries sustained in the line of duty resulting in total and permanent disability.

Surviving Spouses of First Responders who Died in the Line of Duty

The Florida Constitution authorizes the Legislature to provide for a full exemption from ad valorem taxes for the surviving spouse of a first responder who died in the line of duty.[105] This exemption has been in place since 2012, when the Legislature passed, and voters subsequently approved, an amendment to the constitution authorizing the exemption.[106] In order to qualify for the exemption, the first responder and his or her surviving spouse must have been permanent residents of Florida on January 1 of the year in which the first responder died,[107] the real estate must be owned and used by the surviving spouse as a homestead, and the first responder must have been employed by the state of Florida or any political subdivision of Florida at his or her time of death.[108] The surviving spouse may receive the exemption as long as the spouse holds legal or beneficial title to the homestead, resides permanently thereon, and does not remarry.[109] If the surviving spouse sells the property and purchases a new homestead property, the spouse may transfer the exemption to the new property, capped at the amount granted under the most recent ad valorem tax roll.[110] The surviving spouses of law enforcement officers who were employed by the federal government and died in the line of duty are not eligible for the exemption.

Effect of Proposed Changes

Effective for the 2024 tax roll, the bill revises the definition of "first responder" to include federal law enforcement officers as defined in s. 901.1505(1), F.S., thereby expanding the ad valorem tax exemption for surviving spouses of first responders who died in the line of duty and the ad valorem tax exemption for first responders rendered totally and permanently disabled as the result from an injury or injuries sustained in the line of duty to include federal law enforcement officers. Applicants for the exemption must still meet all other requirements.

Carry-Over of Exemptions to New Residences by Surviving Spouses

Current Situation

An exemption granted to a surviving spouse of a totally and permanently disabled or deceased veteran or first responder continues so long as the surviving spouse holds title to the homestead property,

[102] Article VII, s. 6(f), Fla. Const., and s. 196.101, F.S.
[103] Section 196.102(8), F.S.
[104] Section 196.102(5), F.S.
[105] Article VII, s. 6(f), Fla. Const., implemented by s. 196.081, F.S.
[106] CS/HJR 93 (2012).
[107] This requirement is removed by another provision of this bill, as noted above.
[108] Section 196.081(6), F.S.
[109] Section 196.081(6)(b), F.S.
[110] *Id.*

permanently resides thereon, and does not remarry.[111] The amount exempted may be carried forward to a new homestead if the first property is sold, the newly acquired property is established as a homestead, and the surviving spouse does not remarry.[112] Additionally, a veteran or surviving spouse who acquires new homestead property between January 1 and November 1 may receive a refund, prorated as of the date of transfer, of the ad valorem taxes paid in the year of acquisition if they apply for and receive an exemption under 198.081, F.S., in the following tax year.[113]

Effect of Proposed Changes

The bill amends s. 196.081, F.S., to clarify throughout that veterans, first responders, and surviving spouses receiving homestead exemptions related to total and permanent disability or death sustained in the line of duty who purchase a new homestead property are entitled to retain the amount of the exemption.

The bill also similarly clarifies that upon establishing a new homestead a person who applies for and receives such an exemption is entitled to receive a refund for the taxes paid on the homestead property in the year of acquisition.

In order to retain an exemption or receive a refund under these provisions, the property owner must still notify the property appraiser and apply for the exemption. The bill does not substantively change the procedure for applying for or being granted such an exemption.

Property Entitled to Religious, Scientific, or Literary Exemptions

Background

When calculating ad valorem taxes, a property's value is reduced by any exemptions provided by law, including exemptions for educational, literary, scientific, religious, or charitable purposes.[114] The Legislature implements these constitutional exemptions and sets forth the criteria to determine whether property is entitled to an exemption.[115] These implementation provisions give property appraisers a guide when assessing or exempting property.[116]

In determining whether the use of a property qualifies the property for an educational, literary, scientific, religious, or charitable exemption, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.[117] Only the portions of the property used predominantly for qualified purposes may be exempt from ad valorem taxation.[118] Property owned by an exempt organization used exclusively for exempt purposes is totally exempt from ad valorem taxation.

Educational Institution Property Tax Exemption

Current Situation

As mentioned above, Florida exempts from ad valorem tax property owned by an educational institution and used exclusively for educational purposes.[119] Generally, in order to be exempt, the property has to be both owned by and education institution and used for educational purposes by the education

[111] Section 196.081(3), (4)(b), and (6)(b), F.S.
[112] *Id.*
[113] Section 198.081(1)(b), F.S.
[114] Article VII, s. 3., Fla. Const.
[115] Chapter 196, F.S.
[116] *State ex rel. Cragor Co. v. Doss*, 150 Fla. 486, 8 So.2d 15 (1942).
[117] Section 196.196(1)(a)-(b), F.S.
[118] Section 196.196(2), F.S.
[119] Section 196.198, F.S.

institution or other exempt entity. The exemption has been expanded to include unique ownership situations. For instance, land, buildings, and other improvements used exclusively for educational purposes is deemed to be owned by an educational institution (and therefore exempt) if the entity that owns 100% of the land is a nonprofit entity and the land is leased by an educational institution that owns the buildings and other improvements to the real property and that is a nonprofit entity under 501(c)(3) of the Internal Revenue Code that provides education limited to kindergarten through grade 8.[120]

Effect of Proposed Changes

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

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

Parsonages and Burial Grounds

Current Situation

Prior to 1968, Florida Statutes expressly included parsonages owned by churches in the religious exemption from property tax. Former 192.06(4), F.S., provided in pertinent part:

> Property exempt from taxation.- The following property shall be exempt from taxation:
>
> (4) All houses of public worship and lots on which they are situated, and all pews or steps and furniture therein, every parsonage and all burying grounds not owned or held by individuals or corporations for speculative purposes, tombs and right of burial; …

Statutory revisions following the adoption of the 1968 Florida Constitution removed this statutory language that expressly exempted parsonages. Under current law, the only mention of parsonages in ch. 196, F.S., is found in s. 196.011(3), F.S., which provides that it is not necessary to make an annual application for exemption on houses of public worship, including parsonages.

[120] *Id.*

Effect of Proposed Changes

The bill creates a new provision in s. 196.196, F.S., that expressly provides that property that is used as a parsonage, burial grounds, or tomb and is owned by an exempt organization that owns a house of public worship is used for a religious purpose and is thus exempt.

Special Assessments on Agricultural Lands

Current Situation

Aguicultural Lands

Agricultural lands are those used primarily for bona fide agricultural purposes such as horticulture, viticulture, forestry, and farming.[121] Property appraisers are required to annually classify all land as either agricultural or nonagricultural.[122] Lands classified as agricultural are assessed based on current use rather than its highest and best use, often resulting in lower assessed values.[123]

Only the area of the land used for agricultural purposes benefits from the agricultural classification.[124] Maintaining a dwelling on part of the lands used for agricultural purposes does not in itself preclude an agricultural classification.[125] When agricultural property contains a residence under the same ownership, the portion of the property consisting of the residence and curtilage must be assessed separately.[126]

Special Assessments

Local governments are authorized by law to levy a variety of special assessments to fund capital improvements and municipal services. These can include fire protection, emergency medical services, garbage disposal, sewer improvement, street improvement, and parking facilities.[127] Special assessments must generally be levied on property that receives a benefit from the improvement or service the assessment is funding, and must be apportioned fairly and reasonably among the parcels benefitting from the benefit.[128] The apportionment can be based on the front or square footage of each parcel of property, or an alternative method that applies the assessment proportionally to similar parcels of land.[129]

Fire Protection Assessments

Counties are specifically prohibited from levying a special assessment for the provision of fire protection services on lands classified as agricultural lands, unless the land contains either a residential building, or a nonresidential farm building, other than an agricultural pole barn,[130] with a just value in excess of $10,000.[131] Such a special assessment must be based solely on the special benefit accruing to the portion of the agricultural land containing the building.[132]

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[121] Section 193.461, F.S.
[122] Section 193.461(1), F.S.
[123] Art. VII, s. 4(a)., Fla. Const.
[124] Section 193.461(3)(b), F.S.
[125] Section 193.461(3)(c), F.S.
[126] Section 193.461(3)(d), F.S.
[127] Sections 170.201, 125.271, 153.05, 153.73, 163.514, 190.021, and 191.009, F.S.
[128] *See,* "Special Assessments," 2022 Local Government Financial Information Handbook , p. 15, Florida Office of Economic and Demographic Research, available at http://edr.state.fl.us/Content/local-government/reports/lgfih22.pdf (last visited May 8, 2023).
[129] Section 170.201, F.S.
[130] "Agricultural pole barn" means a nonresidential farm building in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress. Section 125.01(1)(r), F.S.
[131] *Id.*
[132] *Id.*

Effect of Proposed Changes

The bill amends s. 125.01, F.S., to prohibit special assessments on lands classified as agricultural. This provision does not apply to residential structures and their curtilage. The prohibition does not affect any existing assessments necessary for debt service, but cannot be used to secure bonds or certificates issued after July 1, 2023.

Corporate Income Tax

Florida levies a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.[133] 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.[134] 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.[135] 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, 2023.

This section of the bill is effective upon becoming law and applies retroactively to January 1, 2023.

Voluntary Cleanup Tax Credit Program (Brownfields) Tax Credit Cap Increase

Current Situation

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

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

- A site eligible for state-funded cleanup under the Drycleaning Solvent Cleanup Program;[136]
- A drycleaning solvent contaminated site at which the real property owner undertakes voluntary cleanup, provided that the real property owner has never been the owner or operator of the drycleaning facility; or
- A brownfield site in a designated brownfield area.[137]

[133] Section 220.11(2), F.S.
[134] Section 220.12, F.S.
[135] Sections 220.03(1)(n) and (2)(c), F.S.
[136] Section 376.30781, F.S.
[137] Section 220.1845, F.S.

The credits are limited as follows:

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

Between 1998 and 2020, the VCTC Program approved approximately $120.7 million in VCTCs.[138] Since 2008, the tax credits approved have consistently exceeded the original $2 million cap. The Legislature increased the cap from $2 million to $5 million in 2011, and then to $10 million in 2017. The Legislature provided for a one-time increase in 2015 (from $5 million to $21.6 million) to clear the backlog at that time,[139] and again in FY 2018-19, when an additional $8.5 million was authorized.[140]

Effect of Proposed Changes

The bill permanently increases the annual cap for the Voluntary Cleanup Tax Credit Program, commonly known as the Brownfields Tax Credit, from $10 million per year to $35 million per year.

Graywater, Residential Systems, and Development Incentives

Current Situation

Graywater is the part of domestic sewage that is not carried off by toilets, urinals, and kitchen drains. It includes waste from the bath, lavatory, laundry, and sink, except for kitchen sink waste.[141] Graywater installations occur in both residential and non-residential installations and the capture, treatment, and reuse of graywater yields usable water that would otherwise be directed to the sewer.[142] Reusing graywater also reduces the use of potable water for non-potable needs and conserves fresh water.[143]

The Florida Building Code specifies that graywater may only be used for flushing of toilets and urinals. Any discharge from the building must be connected to a public sewer or an onsite sewage treatment and disposal system in accordance with Department of Health regulations in chapter 64E-6 of the Florida Administrative Code.[144] Graywater systems in Florida have several requirements: the graywater must be filtered, disinfected, and dyed; and storage reservoirs must have drains and overflow pipes which must be indirectly connected to the sanitary drainage system.[145]

To encourage adoption of residential graywater reuse in the state, counties, municipalities, and special districts are required to implement incentives for the use of graywater technologies.[146] To do this, they must authorize the use of residential graywater technologies in their respective jurisdictions and provide specific density or intensity bonuses to developers or homebuilders if a certain percentage of a proposed or existing development will have a graywater system installed.[147]

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[138] FLA. DEP'T OF ENV. PROT., FLORIDA BROWNFIELDS REDEVELOPMENT PROGRAM ANNUAL REPORT AUGUST 2020, 6, *available at* https://floridadep.gov/sites/default/files/2019-20_BF_Annual_Report_Final_Cover_Letter.pdf (last visited April 15, 2023).
[139] FLA. DEP'T OF ENV. PROT., FLORIDA BROWNFIELDS REDEVELOPMENT PROGRAM ANNUAL REPORT AUGUST 2020, 6, *available at* https://floridadep.gov/sites/default/files/2019-20_BF_Annual_Report_Final_Cover_Letter.pdf (last visited April 15, 2023).
[140] Section. 220.1845(2)(f), F.S.
[141] Section 381.0065(2)(f), F.S.
[142] Alliance for Water Efficiency, *Graywater Systems*, available at: https://www.allianceforwaterefficiency.org/resources/topic/graywater-systems (last visited May 10, 2023).
[143] Martinez, Christopher J., *Gray Water Reuse in Florida*, University of Florida IFAS Extension, https://edis.ifas.ufl.edu/ae453#:~:text=Gray%20water%20must%20be%20filtered,to%20the%20sanitary%20drainage%20system (last visited May 10, 2023).
[144] 2020 Florida Building Code – Plumbing, Seventh Edition (Dec. 2020), available at: https://codes.iccsafe.org/content/FLPC2020P1 (last visited May 10, 2023).
[145] *Id.*
[146] Section 403.892(2), F.S.
[147] *Id.*

Water Reuse Systems Certification

Various certifications are used to establish standards for reused water. Recycled graywater is tested for attributes such as biochemical oxygen demand, suspended solids, and bacteria presence. The National Science Foundation, a federal agency, and the American National Standards Institute, a nonprofit organization, have produced standards for on-site residential and commercial water reuse treatment systems, the most rigorous of which is referred to as "NSF/ANSI 350." Products are tested for at least 26 weeks for performance, and other evaluations are completed, before a product is granted certification.[148] There are several products that have achieved this certification, with costs ranging from $1,000 to $10,000.[149]

Effect of Proposed Changes

The bill creates s. 220.199, F.S., which provides a tax credit against corporate income tax for developers and homebuilders that purchase a qualifying residential graywater system for use in Florida. The credit may be applied to taxable years beginning on or after January 1, 2024, and is equal to 50 percent of the cost of each system purchased during the taxable year, not to exceed $4,200 per system purchased. A homebuilder or developer cannot receive more than $2 million per taxable year.

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

The bill provides that no credits may be certified by DEP for taxable years beginning on or after January 1, 2027. The bill also provides that unused tax credits may be carried forward for up to two taxable years, and authorizes DOR and DEP to adopt rules to administer the tax credit.

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

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

Manufacturing of Human Breast Milk Fortifiers

Current Situation

Nutritional Needs of Premature Infants

Preterm, or premature, infants[150] may have different feeding needs from full term infants in order to thrive. Very premature babies (before 32 or 33 weeks or weighing less than 3.5 pounds)[151] may require extra nutrients added to human breast milk (their mother's milk or other milk) in order to achieve a

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[148] National Science Foundation, *NSF/ANSI Standard 350 for Water Reuse Treatment Systems,* available at: https://d2evkimvhatqav.cloudfront.net/documents/ww_nsf_ansi350_qa_insert.pdf (last visited May 10, 2023).

[149] *Id. See also* Todd Woody, *Install a Greywater System to Lower Utility Bills and Save Water,* BLOOMBERG NEWS, May 10, 2022, available at: https://www.bloomberg.com/news/articles/2022-03-17/why-you-should-install-a-home-greywater-system?leadSource=uverify%20wall (last visited May 10, 2023).

[150] Usually defined to mean to live births at fewer than 37 weeks. See, World Health Organization, *Preterm Birth*, available at https://www.who.int/news-room/fact-sheets/detail/preterm-birth (last visited April 7, 2023).

[151] Carroll K, Herrmann KR. *The cost of using donor human milk in the NICU to achieve exclusively human milk feeding through 32 weeks postmenstrual age.* Breastfeed Med. 2013 Jun;8(3):286-90. doi: 10.1089/bfm.2012.0068. Epub 2013 Jan 16. PMID: 23323965; PMCID: PMC3663453, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3663453/ (last visited April 7, 2023).

healthy weight.[152,153] These children often require additional protein, calcium, phosphorous, iron, salt, and other additives to help them "catch up" to full term infants.[154] These can be provided through commercially prepared liquid or powder fortifier.[155] The cost for fortified human breast milk for a single preterm infant can be more than $10,000.[156] Many premature babies are not provided with these products due to the overwhelming cost.[157]

Manufacturing of Human Breast Milk Fortifiers

The manufacturing of human breast milk fortifiers is an emerging field, with several companies trying to increase access to safe and affordable fortified human breast milk for premature infants.[158] The cost for machinery and equipment to safely sterilize, pasteurize, process, and/or otherwise produce human milk fortifiers that are safe for premature infants can be significant.

Effect of Proposed Changes

The bill creates s. 220.1991, F.S., a corporate income tax credit for up to 50% of the cost of machinery and equipment purchased to produce human breast milk fortifiers in this state. The total credits that can be awarded are $5 million per state fiscal year. The credit is available for two years, FY 2023-24 and 2024-25, and allows unused credits to carry forward for up to five taxable years.

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

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

Documentary Stamp Tax and Non-Recurring Intangible Tax

Taxation of Certain Small Business Loans

Current Situation

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.[159]

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[152] Randy Children's Hospital-San Diego, *Human Milk Fortifiers for Preterm Infants*, available at https://www.rchsd.org/programs-services/neonatology/parent-education/human-milk-fortifiers-for-preterm-infants/ (last visited April 7, 2023).
[153] Stanford Medicine Children's Healthy, *Adding to Mother's Milk*, available at https://www.stanfordchildrens.org/en/topic/default?id=adding-to-mothers-milk-90-P02333 (last visited April 7, 2023).
[154] Gu X, Shi X, Zhang L, Zhou Y, Cai Y, Jiang W, Zhou Q. Evidence summary of human milk fortifier in preterm infants. Transl Pediatr. 2021 Nov;10(11):3058-3067. doi: 10.21037/tp-21-476. PMID: 34976771; PMCID: PMC8649601, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8649601/ (last visited April 7, 2023).
[155] *Id.*
[156] Carroll K, Herrmann KR. *The cost of using donor human milk in the NICU to achieve exclusively human milk feeding through 32 weeks postmenstrual age.* Breastfeed Med. 2013 Jun;8(3):286-90. doi: 10.1089/bfm.2012.0068. Epub 2013 Jan 16. PMID: 23323965; PMCID: PMC3663453, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3663453/ (last visited April 7, 2023).
[157] The New York Times, *Breast Milk Becomes a Commodity, With Mothers Caught Up in Debate,* March 20, 2015, available at https://tinyurl.com/5e7ck3zu (unlocked article, last visited April 7, 2023).
[158] See, e.g., Medolac, *Mission,* available at https://www.medolac.com/our-mission/ (last visited April 7, 2023); Lactalogics, *About Us,* available at https://lactalogics.com/about/ (last visited April 7, 2023); and Prolacta, *About Us,* https://www.prolacta.com/en/about-us/ (last visited April 7, 2023).
[159] Florida Department of Revenue, *Florida Documentary Stamp Tax, available at* https://floridarevenue.com/taxes/taxesfees/pages/doc_stamp.aspx (last visited May 10, 2023).

The tax on deeds and other documents related to real property is 70 cents per $100,[160] 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.[161] Documentary stamp taxes levied on promissory notes, nonnegotiable notes, and written obligations may not exceed $2,450.[162]

Non-Recurring Intangible Tax

Chapter 199, F.S., imposes a non-recurring, one-time intangible personal property tax on obligations for the payment of money secured by liens on Florida real property.[163] The rate for the intangible tax is 2 mills for each dollar of the just valuation of all notes, bonds, and other obligations for payment of money which are secured by mortgage, deed, or other lien.[164] The rate is limited by Art. VII, section 2 of the Florida Constitution.

504 Loan Program

The United States Small Business Administration (SBA) provides long-term, fixed rate financing through their 504 Loan Program for small, for-profit companies looking to invest in major fixed assets but who need assistance with funding. The loan program offers loans of up to $5.5 million[165] that can be used for buildings, land, or machinery and equipment necessary to promote business growth or spur job creation.[166]

The program is most frequently structured to have the owner put in 10% of the necessary capital,[167] 50% of the funding to come from a traditional loan,[168] and 40% of the funding to be the 504 Loan.[169] The program is run through Certified Development Companies, which are nonprofit corporations that help organize the 504 Loan process and serve as intermediaries for companies, banks, and the SBA.[170]

Both the 50% traditional loan and the 40% SBA loan are subject to documentary stamp tax and non-recurring intangibles under Florida law, based on the value of the loans.

As part of the 504 Loan process, there is a period where an "interim" or "bridge" loan is made for the portion of the loan that will ultimately be held by the SBA. The 40% interim loan which will be assumed by the SBA can be issued by either the same bank issuing the 50% traditional loan, or by a different bank from the 50% traditional loan lender. The process by which the SBA takes over the loan in either circumstance is essentially a step transaction.

When the 40% interim loan is held by the same bank as the traditional 50% loan, for purposes of documentary stamp tax and intangibles tax, the only amount taxable when the SBA assumes the loan are any new or additional fees added to the 40% loan at the time the loan is transferred. If the 40% loan is held by a different entity, then the entire balance of the loan which has already been taxed is taxed again when the loan is transferred to the SBA, in addition to taxing any new or additional fees. This creates two different taxing structures based solely on what lender issues the interim loan, and results in a portion of the loan being taxed at each step of the transaction in certain circumstances.

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[160] Section 201.02(1)(a), F.S.
[161] Sections 201.07 and 201.08(1)(b), F.S.
[162] Section 201.08(1)(a), F.S.
[163] Section 199.133(1), F.S.
[164] *Id.*
[165] 15 U.S.C. section 696(2).
[166] U.S. Small Business Administration, *504 Loans*, available at https://www.sba.gov/funding-programs/loans/504-loans (last visited April 6, 2023).
[167] 15 U.S.C. section 696(3)(C)(iv)
[168] 15 U.S.C. section 696(3)(B)(ii)
[169] U.S. Small Business Administration, *504 Loan Program*, available at https://www.sba.gov/brand/assets/sba/sba-lenders/504-Loan-Fact-Sheet-Borrower-Version.pdf (last visited April 6, 2023).
[170] *Id.*

Effect of the Proposed Changes

The bill clarifies that an interim loan upon which taxes have already been paid is not subject to documentary stamp or intangible taxes on the same amount when the federal government takes over the loan.

Motor Fuel and Diesel Fuel Tax

Natural Gas Fuel Tax Delay

Current Situation

Motor Fuel[171]

Florida law provides for the following taxes on motor fuel:[172]

- An excise or license tax of 2 cents per net gallon of motor fuel, designated as the "constitutional fuel tax";
- An additional 1 cent per net gallon, designated as the "county fuel tax";
- An additional 1 cent per net gallon, designated as the "municipal fuel tax";
- An additional tax of 1 cent per net gallon may be imposed by each county, designated as the "ninth-cent fuel tax";
- An additional tax of between 1 and 11 cents per net gallon may be imposed by each county, designated as the "local option fuel tax";
- An additional tax per net gallon of motor fuel is imposed by each county, designated as the SCETS Tax, at a rate calculated by applying specified index-based adjustments to a rate specified in the law;
- An additional tax per net gallon is imposed "on the privilege of selling motor fuel", designated as the "fuel sales tax," at a rate calculated by applying specified index-based adjustments to an initial rate established in the law; and
- An additional 0.125 cents per net gallon for defraying expenses incident to inspecting, testing, and analyzing motor fuel in this state.

The current state tax rate on motor fuel is 20.2 cents per gallon, the SCETS tax rate on motor fuel is 8.6 cents, and the fuel sales tax rate on motor fuel is 15.1 cents. The local option rate varies by county, and the total state and county rates on motor fuel varies from 35.2 cents to 41.3 cents per gallon. [173]

Diesel Fuel[174]

Florida law provides for the following taxes on diesel fuel:[175]

- An excise tax of 4 cents per net gallon of diesel fuel;
- An additional 1 cent per net gallon is imposed by each county, designated as the "ninth-cent fuel tax";
- An additional 6 cents per net gallon is imposed by each county, designated as the "local option fuel tax";

[171] "Motor fuel" is defined as "all gasoline products or any product blended with gasoline or any fuel placed in the storage supply tank of a gasoline-powered motor vehicle." S. 206.01(9), F.S.
[172] Section 206.41(1), F.S,
[173] Florida Department of Revenue, Tax Information Publication No. 22B05-06, Fuel Tax Rates Adjusted Beginning January 1, 2023, (Nov. 17, 2022), available at: https://floridarevenue.com/taxes/tips/Pages/default.aspx (last visited May 10, 2023).
[174] "Diesel fuel" is defined as "all petroleum distillates commonly known as diesel #2, biodiesel, or any other product blended with diesel or any product placed into the storage supply tank of a diesel-powered motor vehicle." s. 206.86(1), F.S.
[175] Section 206.87(1), F.S.

- An additional tax per net gallon is imposed in each county, designated as the SCETS Tax, at a rate equal to the maximum SCETS Tax rate for motor fuel; and
- An additional tax per net gallon "on the privilege of selling diesel fuel," designated as the "fuel sales tax," at a rate calculated by applying specified index-based adjustments to an initial rate established in the law.

The current state tax rate on diesel fuel is 20.2 cents per gallon and the county tax rate (ninth cent, SCETS, and local option rates) is 15.9 cents statewide. The total state and county rates on diesel fuel are 36.1 cents per gallon. [176]

Pre-2014

Prior to 2014, natural gas fuels such as compressed natural gas (CNG) and liquid petroleum gas (LPG) were defined in Florida law as "alternative fuels" when used to fuel motor vehicles.[177] In lieu of the excise tax imposed on diesel fuel under the law, owners or operators of Florida-licensed motor vehicles powered by alternative fuels were required to pay an annual decal fee for each such vehicle.[178] These annual fees ranged from $199.10 to $380.10 per vehicle, depending on the vehicle's size and weight.[179] The sale of alternative fuels also was subject to sales tax imposed under ch. 212, F.S.[180]

With certain exceptions, Florida law prohibited a person from acting as a retailer of alternative fuel unless that person held a valid license as a retailer of alternative fuel issued by DOR.[181] Any person acting as such without a license was subject to a penalty of 25 percent of the tax assessed on total purchases during the unlicensed period.[182] Every person who operated as a retailer of alternative fuel, with certain exceptions, was required to report monthly to DOR and pay tax on all fuel purchases.[183]

Revenues from the annual decal fees were deposited into the State Alternative Fuel User Fee Clearing Trust Fund.[184] After deducting a specified service charge, the proceeds in the trust fund were distributed as follows:

- One-half of the proceeds to the State Transportation Trust Fund (STTF);
- 50 percent of the remainder to the State Board of Administration for distribution in accordance with the Florida Constitution;
- 25 percent of the remainder to the Revenue Sharing Trust Fund for Municipalities; and
- 25 percent of the remainder to the counties for specified public transportation purposes, distributed as provided by law.

Current Law

In 2013, the Legislature passed legislation to "help reduce transportation costs in this state and encourage freight mobility investments that contribute to the economic growth of the state."[185] To accomplish these goals, the bill created a 5-year rebate program for natural gas fuel fleet vehicles and exempted natural gas fuels from state fuel taxes for 5 years. The Natural Gas Fuel Fleet Vehicle Rebate program provided $6 million per fiscal year, from FY 2013-14 through FY 2017-18, to fund rebates for the purchase, conversion, or lease of natural gas fuel fleet vehicles. Further, effective

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[176] Florida Department of Revenue, Tax Information Publication No. 22B05-06, Fuel Tax Rates Adjusted Beginning January 1, 2023, (Nov. 17, 2022), available at: https://floridarevenue.com/taxes/tips/Pages/default.aspx (last visited May 10, 2023).
[177] Section 206.86(4), F.S. (2012)
[178] Section 206.86(4), F.S. (2012)
[179] See Use of Natural Gas Fuels to Operate Motor Vehicles is Increasing in Florida, Office of Program Policy Analysis & Government Accountability, Report No. 17-10 (Oct. 2017), at p. 4.
[180] *Id.*
[181] Section 206.89, F.S. (2012)
[182] *Id.*
[183] *Id.*
[184] Section 206.879, F.S. (2012)
[185] Ch. 2013-198, Laws of Fla.

January 1, 2014, the bill eliminated the annual decal fee for natural gas vehicles. The 2013 bill replaced it with a new tax structure that creates a "per motor fuel equivalent gallon" tax rate to become effective January 1, 2019.[186] In 2018, the legislature delayed the effective date of these taxes to January 1, 2024.

Pursuant to current law, the following taxes will be imposed on natural gas fuel[187] effective January 1, 2024:[188]

- An excise tax of 4 cents upon each motor fuel equivalent gallon[189] of natural gas fuel;
- An additional tax of 1 cent upon each motor fuel equivalent gallon of natural gas fuel, which is designated as the "ninth-cent fuel tax";
- An additional tax of 1 cent on each motor fuel equivalent gallon of natural gas fuel by each county, which is designated as the "local option fuel tax";
- An additional tax on each motor fuel equivalent gallon of natural gas fuel, designated as the "State Comprehensive Enhanced Transportation System (SCETS) Tax." The tax rate must be determined by DOR each calendar year, rounded to the nearest tenth of a cent, for the following 12-month period beginning January 1. The rate is calculated by adjusting the "initially established tax rate of 5.8 cents per gallon" by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30; and
- An additional tax on each motor fuel equivalent gallon of natural gas fuel "for the privilege of selling natural gas fuel," designated as the "fuel sales tax." The tax rate must be determined by DOR each calendar year, rounded to the nearest tenth, for the following 12-month period beginning January 1. The rate is calculated by adjusting the "initially established tax rate of 9.2 cents per gallon" by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30.

In sum, prior to any of the required annual index-based adjustments by DOR, natural gas fuel will be taxed at a rate of at least $0.21 cents per motor fuel equivalent gallon beginning January 1, 2024.[190]

Revenues from the natural gas fuel tax will be deposited into the State Alternative Fuel User Fee Clearing Trust Fund to be distributed as follows:[191]

- The revenues from the SCETS tax and fuel sales tax will be transferred to the STTF.
- The revenues from the excise tax will be distributed as follows:
  - 50% will be transferred to the State Board of Administration for distribution in accordance with the Florida Constitution.
  - 25% will be transferred to the Revenue Sharing Trust Fund for Municipalities.
  - 25% will be distributed to the counties for specified public transportation purposes, distributed as provided by law.
- The revenues from the ninth-cent fuel tax and the local option sales tax will be deposited into the Local Alternative Fuel User Fee Clearing Trust Fund and returned monthly to the appropriate counties.

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[186] *Id.* The provisions of the bill related to taxation of natural gas fuel are codified as Part V of Ch. 206, F.S., consisting of Ss. 206.9951 – 206.998, entitled "NATURAL GAS FUEL."
[187] "Natural gas fuel" is defined as "any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in a motor vehicle as defined in s. 206.01(23). This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas. This term does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electric generation." S. 206.9951(2), F.S.
[188] Section 206.9955, F.S.
[189] "Motor fuel equivalent gallon" is defined as "the volume of natural gas fuel it takes to equal the energy content of 1 gallon of motor fuel." s. 206.9951(1), F.S. The conversion rates for various types of natural gas fuels is provided in s. 206.9955, F.S.
[190] The law is unclear as to whether the index-based adjustments were to begin with the effective date of the law (January 1, 2014) or the effective date of the new tax rates (January 1, 2024).
[191] Section 206.997, F.S

The law provides that until December 31, 2023, any person acting as a natural gas retailer without a valid license to do so must pay a penalty of $200 for each month of operation without a license. Effective January 1, 2024, the penalty becomes 25 percent of the tax assessed on total purchases made during the unlicensed period.[192] In addition, the law requires natural gas fuel retailers to submit an electronic, monthly report to DOR, beginning February 2024 and monthly thereafter, showing information on inventory, purchases, nontaxable disposals, table uses, and taxable sales in gallons of natural gas fuel for the preceding month, with certain exceptions and a specified deduction for services rendered and expenses incurred in complying with the reporting requirements.[193]

Effect of Proposed Changes

The bill provides for a 2-year delay of the imposition of natural gas fuel taxes that would otherwise go into effect January 1, 2024. The bill changes the effective date of the imposition of these taxes to January 1, 2026. Thus, state fuel taxes will not apply to natural gas fuels for an additional 2 years.

To conform to the delayed imposition of these taxes, the bill:

- Extends by 2 years (from December 31, 2023, to December 31, 2025) the expiration of the current flat penalty scheme that applies to any person who acts as a natural gas retailer without a valid natural gas fuel retailer license, and delays by 2 years (from January 1, 2024, to January 1, 2026) the effective date of a new penalty scheme that is based on a percentage of the tax assessed during the period of unlicensed operations; and
- Delays by 2 years (from February 2024 to February 2026) the date by which natural gas fuel retailers must file monthly reports with DOR for the purpose of determining the amount of natural gas fuel taxes imposed.

Communications Service Tax

Local Rate Freeze

Current Situation

Chapter 202, F.S., is the Communications Services Tax (CST) Simplification Law. The term "communications services" means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method, regardless of the protocol used for such transmission or conveyance.[194]

Section 202.105, F.S., provides the legislative findings and intent related to enactment of the CST simplification law. The law simplified a complicated state and local tax and fee system, by restructuring separate taxes and fees into a revenue-neutral CST centrally administered by the Department of Revenue (DOR), i.e. a single tax to replace multiple taxes and fees previously imposed. Among the Legislature's stated intentions in creating the CST was that it not reduce the authority that municipalities or counties had to raise revenue in the aggregate, as such authority existed on February 1, 1989.

The state CST rate, except for direct-to-home satellite service, is 4.92 percent.[195] Local governments may also levy a discretionary CST:

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[192] Section 206.9952(3), F.S.
[193] Section 206.996, F.S.
[194] Section 202.11(1), F.S. Excluded from this definition is information services; installation or maintenance of wiring or equipment on a customer's premises; the sale or rental of tangible personal property; the sale of advertising, including, but not limited to, directory advertising; bad check charges; late payment charges; billing and collection services; and internet access service, electronic mail service, electronic bulletin board service, or similar online computer services.
[195] Section 202.12(1)(a) and (b), F.S. For direct-to-home satellite service the rate is 9.07 percent.

- Charter counties and municipalities may levy the CST at a rate of up to 5.1 percent for municipalities and charter counties that have not chosen to levy permit fees, and at a rate of up to 4.98 percent for municipalities and charter counties that have chosen to levy permit fees; and
- Noncharter counties may levy the CST at a rate of up to 1.6 percent.[196]

These maximum rates do not include the add-ons, pursuant to s. 337.401, F.S., of up to 0.12 percent for municipalities and charter counties or of up to 0.24 percent for noncharter counties, if those local governments have elected not to require right-of-way permit fees.[197]

The local discretionary CST and add-on rates, if applicable, constitute the total local adopted rate.[198]

The local CST includes and is in lieu of any fee or other consideration, including, but not limited to, application fees, transfer fees, renewal fees, or claims for related costs, to which the municipality or county is otherwise entitled for granting permission to dealers of communications services to use or occupy its roads or rights-of-way for the placement, construction, and maintenance of poles, wires, and other fixtures used in the provision of communications services.[199] Additionally, the term "replaced revenue sources" includes permit fees relating to use of rights-of-way collected from communication services providers; however, if a municipality or charter county elects the option to charge permit fees pursuant to s. 337.401(3)(c), F.S., such fees are not be included as a replaced revenue source.[200]

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

Effect of Proposed Changes

The bill revises s. 202.19, F.S., to require that any local CST rate in effect as of January 1, 2023, cannot be increased before January 1, 2026. The bill also provides that any increases to discretionary sales tax, levied pursuant to s. 212.055, F.S., may not be added to the local CST under s. 202.19, F.S., before January 1, 2026.

Local Option Tax

Municipal Resort Tax and Local Food and Beverage Tax

Current Situation

In 1967, Florida authorized the municipal resort tax.[201] The law authorized cities and towns meeting certain population requirements located within counties also meeting certain population requirements to levy the tax.[202] 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.[203]

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.

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[196] Section 202.19, F.S.
[197] Section 337.401(3)(c), F.S.
[198] Florida Department of Revenue, *2023 Agency Legislative Bill Analysis for SB 1432*, (Mar. 14, 2023)
[199] Section 202.19(3)(a), F.S.
[200] Section 202.20(2)(b)1.e, F.S.
[201] Chapter 67-930, Laws of Fla.
[202] Section 1, ch. 67-930, Laws of Fla.
[203] Section 1, ch. 67-930, Laws of Fla.

Florida has since authorized Miami Dade County to levy the local option food and beverage tax.[204] 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.[205]

The local option food and beverage tax may not be levied in a city or town that levies the municipal resort tax.[206]

Effect of Proposed Changes

The bill authorizes 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. A referendum to reenact an expiring 1 percent local option food and beverage tax 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 appear on the ballot only once within the 48-month period.

Tourist Development Taxes

Current Situation

The Local Option Tourist Development Act[207] authorizes counties to levy five separate taxes on transient rental[208] transactions (tourist development taxes or TDTs).

Prior to the authorization of the initial one or two percent TDT, the levy must be approved by a countywide referendum held at a general election[209] and approved by a majority of the electors voting in the county.[210]

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.[211]
- 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.[212]
- A high tourism impact tax may be levied at an additional 1 percent.[213]
- A professional sports franchise facility tax may be levied up to an additional 1 percent.[214]

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[204] Section 212.0306, F.S.
[205] Section 212.0306(1), F.S.
[206] Section 212.0306(2)(d), F.S.
[207] Section 125.0104, F.S.
[208] Section 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.
[209] Section 125.0104(6)(a), F.S.
[210] *Id.*
[211] Section 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 2007-2023*, available at http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm (last visited April 3, 2023). These counties are estimated to realize $612 million in revenue from these taxes in the 2022-23 fiscal year. EDR, *2022 Local Government Financial Information Handbook* (December 2022), p. 251, http://edr.state.fl.us/Content/local-government/reports/lgfih22.pdf (last visited April 3, 2023).
[212] Section 125.0104(3)(d), F.S. Fifty-six of the eligible fifty-nine counties levy this tax, with an estimated 2022-23 state fiscal year collection of $250 million in revenue. EDR, *2022 Local Government Financial Information Handbook, supra* note 227, at p. 255.
[213] Section 125.0104(3)(m), F.S. Eight of the nine eligible counties levy this tax, with an estimated 2022-23 state fiscal year collection of $162 million in revenue. *Id*. at p. 261.
[214] Section 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 prom ote and

- 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.[215]

In 2016 the legislature passed legislation that authorized a county located adjacent to the Gulf of Mexico or the Atlantic Ocean, which meets certain criteria, may use up to 10 percent of the tourist development tax revenue to reimburse expenses incurred in providing public safety services, including emergency medical services as defined in s. 401.107(3), and law enforcement services, which are needed to address impacts related to increased tourism and visitors to the area.[216] The criteria are the following:

- County must generate a minimum of $10 million in annual proceeds from any tax, or any combination of taxes, authorized to be levied pursuant to this section[217];
- County must have at least three municipalities[218]; and
- County must have an estimated population of less than 225,000, according to the most recent population estimate.[219]

At the time, the eligible counties were Okaloosa, Walton, and Bay counties.

Okaloosa County is growing close to that population limitation and is expected to surpass it in the next three years.[220]

Effect of Proposed Changes

The bill requires that any ordinance enacted to levy any of the TDTs (not just the initial one or two percent) must be approved in a referendum held at a general election.

The bill amends s. 125.0104(5)(c), F.S., to increase the 225,000 population threshold to 275,000, to allow the continued use of funds for public safety purposes by Okaloosa, Bay, and Walton counties. The bill also allows this use of funds by fiscally constrained counties that border the Gulf of Mexico or Atlantic Ocean. Under existing fiscally constrained county designations, this expansion inludes Gulf, Franklin, Wakulla, Taylor, Dixie, and Levy counties.

Local Tax Referenda

Current Situation

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

Tourist Development Tax

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advertise tourism. Forty-five of the sixty-seven eligible counties levy this additional tax, with an estimated 2022-23 state fiscal year collection of $285 million in revenue. *Id*. at p. 259.

[215] Section 125.0104(3)(n), F.S. Thirty-one counties levy the additional professional sports franchise facility tax, with an estimated 2022-23 state fiscal year collection of $217 million in revenue. *Id*. at p.265.

[216] Section 125.0104(5)(c), F.S.

[217] Section 125.0104(5)(c)1, F.S.

[218] Section 125.0104(5)(c)2, F.S.

[219] Section 125.0104(5)(c)3, F.S.

[220] The Office of Economic and Demographic Research, *Okaloosa County,* available at http://edr.state.fl.us/Content/area-profiles/county/okaloosa.pdf (last visited May 11, 2023).

A tourist development tax is a county tax on consideration paid on residential rentals of six months or less.[221] The tax funds tourism-related uses specified in the authorizing statute. The initiation of the tax must be approved by a referendum held at a general election.[222]

Areas of Critical State Concern Tourist Impact Tax

An area of critical state concern tourist impact tax is a tax on the consideration paid on residential rentals of six months or less imposed by a county creating a land authority pursuant to the state laws regulating land use planning in areas of critical state concern.[223] The tax is distributed to the land authority for use in the area of critical state concern pursuant to the land authority's responsibilities[224] and to the governing body of the county to offset ad valorem taxes lost due to public acquisitions provided for in the act establishing the areas of critical state concern.[225] The tax may not take effect until approval of a referenda by a majority of the voters residing in the affected jurisdiction. The referendum must be held in conjunction with a general election.[226]

Children's Services Independent Special District Tax

The children's services independent special district tax is an ad valorem tax not to exceed 0.5 mills of assessed valuation of all property subject to county ad valorem taxes, assessed in a county having an independent special district to fund children's services in the county. The ad valorem tax must be approved initially by a majority vote of county voters in a general election.[227]

Discretionary Sales Surtaxes

Counties have been granted limited authority to levy a discretionary sales surtaxes for specific purposes on transactions subject to state sales tax.[228] These purposes include:

- Operating a transportation system in a charter county;[229]
- Financing local government infrastructure projects;[230]
- Providing additional revenue for counties having less than 50,000 residents as of April 1, 1992;[231]
- Providing medical care for indigent persons;[232]
- Funding trauma centers;[233]
- Operating, maintaining, and administering a county public general hospital;[234]
- Constructing and renovating schools;[235]
- Providing emergency fire rescue services and facilities; and[236]
- Funding pension liability shortfalls.[237]

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[221] Section. 125.0104(3)(a), F.S.
[222] The referendum requirement is extended to all tourist development taxes in this bill, as noted above. Under current law, only the original tourist development tax authorized under s. 125.0104(3)(b) and (c), F.S., requires approval in a referendum, as provided in s. 125.01014(6), F.S.
[223] Sections 125.0108(b)(1) and 380.05 to 380.0685, F.S.
[224] Section 380.0666, F.S.
[225] Ch. 86-170, Laws of Fla.
[226] Section 125.0108(5), F.S.
[227] Section 125.901(1), F.S. (The revenues collected fund the services authorized in s. 125.901, F.S.)
[228] Sections 212.054, 212.055, F.S.
[229] Section 212.055(1), F.S.
[230] Section 212.055(2), F.S.
[231] Section 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.
[232] Section 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).
[233] Section 212.055(4)(b), F.S.
[234] Section 212.055(5), F.S.
[235] Section 212.055(6), F.S.
[236] Section 212.055(8), F.S.
[237] Section 212.055(9), F.S.

A referendum to adopt or amend a discretionary sales surtax must be held at a general election.[238] Current law does not specify when a referendum to extend an existing discretionary sales surtax at the same rate must occur.

County Transportation Motor Fuel Tax

The county transportation motor fuel tax is a local option, 1 cent per gallon fuel tax for specified transportation expenditures.[239] The tax is identified as "the ninth cent fuel tax"[240] and may be levied by any county by extraordinary vote of the membership of the governing body or subject to a referendum held at a general election.[241]

[238] Section 212.055(10), F.S.
[239] Sections 336.021(1)(a) and 336.025(7), F.S.
[240] Section 336.021(2)(a), F.S.
[241] Section 336.021(4)(a)2, F.S.

Local Option Fuel Taxes

With regard to local option fuel taxes, two different taxes[242] may be levied, each up to 6 cents per gallon on motor fuels. These taxes may be levied by ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum held at a general election.[243]

Effect of Proposed Changes

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

Credits Available Against Multiple Taxes

Current Situation

Florida Tax Credit Scholarship Program (FTC)

The FTC is funded with contributions to private non-profit Scholarship-Funding Organizations (SFOs) from taxpayers who receive a tax credit for use against their liability for corporate income tax; insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders; or alcoholic beverage taxes on beer, wine and spirits.[244] The credit is equal to 100 percent of the eligible contributions made.[245] To receive a credit the taxpayer must submit an application to DOR and specify each tax for which the taxpayer requests a credit and the applicable taxable or state fiscal year for the credit.[246] Taxpayers can rescind tax credits, which will become available to another eligible taxpayer in that fiscal year. [247]

The maximum amount of tax credits that may be awarded in FY 2022-23 is $1.1 billion.[248] The Revenue Estimating Conference estimates that contributions applicable against this limit will be $848.5 million in FY 2022-23.[249] In any state fiscal year when the annual tax credits granted for the prior state fiscal year are equal to or greater than 90 percent of the tax credit cap amount applicable to that state fiscal year, the tax credit cap amount is increased by 25 percent.[250]

New Worlds Reading Initiative Tax Credit

The New Worlds Reading Initiative, established in s. 1003.485, F.S., was created in 2021 to provide tax credits for businesses that make monetary donations to the administrator of the New Worlds Reading Initiative, a literacy program that provides books to elementary school students in Florida who read below grade level.[251] The tax credits are a dollar-for-dollar credit against business's liability for

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[242] Section 336.025(1)(a) and (b), F.S.
[243] Section 336.025(1)(b) and (3)(a), F.S.
[244] Section 1002.395, F.S., along with s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, and s. 624.51055, F.S.
[245] Sections 211.0251, 212.1831, 220.1875, 561.1211, and 624.51055, F.S.
[246] Section 1002.395(5)(b), F.S.
[247] Section 1002.395(5)(e), F.S.
[248] Florida Department of Revenue Taxpayer Information Publication #22ADM-05, *Florida Tax Credit Scholarship Program Tax Credit Cap Will Increase*, issued June 6, 2022, available at https://floridarevenue.com/taxes/tips/Documents/TIP_22ADM-05.pdf (last visited May 10, 2023).
[249] Revenue Estimating Conference, *Pre-Consensed Tax Credits March 2023 Forecast*, available at http://edr.state.fl.us/Content/conferences/generalrevenue/grscholarshiptaxcreditestimates.pdf (last visited May 10, 2023).
[250] Section 1002.395(5)(a)1., F.S.
[251] Chapter 2021-31, L.O.F.

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.[252]

Businesses that wish to participate in the program by making a donation to the program apply to DOR for an allocation of tax credit.[253] 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. 220.1876 or 624.51056, F.S., relating to the corporate income and insurance premium tax credits, and the applicable state fiscal year for a credit under ss. 211.0252, 212.1833, or 561.1212, F.S., relating to oil and gas production, direct pay permit sales, and alcoholic beverage tax credits, respectively.[254] The annual tax credit cap for all credits under this program was $10 million for state fiscal year 2021-22, $30 million for 2022-23, and is $60 million for all years thereafter.[255] DOR is required to approve the tax credits on a first-come, first-served basis and must obtain the approval of the DBPR prior to approving an alcoholic beverage tax credit under s. 561.1212, F.S.[256]

Strong Families Tax Credit

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.[257] The organizations are certified by the Department of Children and Families (DCF).[258] 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.[259] 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 apply to DOR for an allocation of tax credit.[260] 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.[261] The annual tax credit cap for all credits under this program is $10 million per state fiscal year.[262] DOR is required to approve the tax credits on a first-come, first-served basis and must obtain the approval of DBPR to approving an alcoholic beverage tax credit under s. 561.1213, F.S.[263]

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[252] Section 1003.485, F.S., along with s. 211.0252, s. 212.1833, s. 220.1876, s. 561.1212, and s. 624.51056, F.S.
[253] Section 1003.485(5)(b), F.S.
[254] Section 1003.485(5)(b)1., F.S.
[255] Section 1003.485(5)(a), F.S.
[256] Section 1003.485(5)(b)1., F.S.
[257] Chapter 2021-31., L.O.F.
[258] *See,* https://www.myflfamilies.com/about/strong-families-tax-credit (last visited May 10, 2023)
[259] Section 402.62, F.S., along with s. 211.0253, s. 212.1834, s. 220.1877, s. 561.1213, and s. 624.51057, F.S.
[260] Section 402.62(5)(b), F.S.
[261] Section 402.62(5)(b)1., F.S.
[262] Section 402.62(5)(a), F.S.
[263] Section 402.62(5)(b)1., F.S.

Corporate Income Tax Underpayment Penalty

Florida's corporate income tax code allows taxpayers to request and receive an extension to file a tax return if they have extended their federal return or for other good cause, so long as they file a tentative tax return and pay, on or before the original due date, the amount estimated to be due.[264] The extension is not valid, and interest and penalties may apply, if the taxpayer underpays the estimated tax due by more than the greater of $2,000 or 30% of the tax shown on the return when filed.[265]
For purposes of calculating whether the underpayment is "more than 30% of the tax shown," the Department of Revenue does not currently treat contributions made under any of the credit programs mentioned above as tax shown or tax paid. Instead, the calculation is based on the remaining tax shown to be due on the return after credits are taken.

Effect of Proposed Changes

The bill increases the annual cap for the Strong Families program from $10 million per state fiscal year to $20 million per state fiscal year, beginning in FY 2023-24.

The bill also clarifies that for purposes of the underpayment penalty, and related extension revocations and interest charges, that the "tax shown on the return when filed" includes the amount of allowable credits taken on the return pursuant to the Florida Tax Credit Scholarship Program, the New Worlds Reading Initiative Tax Credit, or the Strong Families Tax Credit.

Florida Thoroughbred Breeding and Racing

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[266] is provided for in s. 212.20, F.S. That statute provides the reallocation of tax revenue to a series of trust funds,[267] distributions to the General Revenue Fund,[268] and other distributions in accordance with other sections of law (e.g., to the Revenue Sharing Trust Funds for Counties and Municipalities).[269]

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

[264] Section 220.222(2), F.S.
[265] Section 220.222(2)(c), F.S.
[266] Section 212.20(6), F.S., provides distribution requirements for chapter 212, communications services tax under ss. 202.18(1)(b) and (2)(b), and gross receipts taxes under 203.01(1)(a)3., F.S.
[267] E.g., section 212.20(6)(a) and (b), F.S.
[268] E.g., section 212.20(6)(c)1., F.S.
[269] E.g., section 212.20(6)(c)2., (d)3., 4., and 6., F.S.

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% 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

In 1990, the legislature created the Florida Agricultural Promotional Campaign Trust Fund to support the Florida Agricultural Promotional Campaign.[270] The goal of the campaign was to "increase consumer awareness and expand the market for Florida's agricultural products."[271] The Trust Fund, within the Department of Agriculture and Consumer Services, holds funding for implementing the Florida Agricultural Promotional Campaign.[272] The campaign is probably best well known for the "Fresh From Florida" marketing campaign and related logos.[273]

Effect of Proposed Changes

The bill amends s. 212.20, F.S., to distribute $27.5 million to the Florida Agricultural Promotional Campaign Trust Fund.

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

The bill requires that the funds be distributed as follows:

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

[270] Chapter 90-323, L.O.F., s. 16
[271] Section 571.22, F.S.
[272] Section 571.26, F.S.
[273] 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 May 10, 2023).

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

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

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

Credit Against Pari-mutuel Taxes

Current Situation

Pari-mutuel wagering is a system of betting on races in which the winners divide the total amount bet in proportion to the sums that they wagered and with regard to the odds assigned to the outcomes, after deducting management expenses and taxes.[274] The total amount bet by pari-mutuel wager is known as "handle."[275]

Wagering can take place on live races that are occurring at the physical track where the gaming patron is located, and patrons can also participate in pari-mutuel wagering on "off-premises" races that are being conducted elsewhere. Wagering on "off-premises" races is known as "intertrack wagering."[276]

In 2020, Congress passed the Horseracing Integrity and Safety Act of 2020 (HISA) within the Consolidated Appropriations Act of 2021.[277] The HISA resulted in the creation of the Horseracing Integrity and Safety Authority (the Authority), which was created for the purposes of developing and implementing a horseracing anti-doping and medication control program and racetrack safety

[274] Section 550.002(21), F.S.
[275] Section 550.002(12), F.S.
[276] Section 550.002(16), F.S.
[277] Pub. L. No. 116-260.

program.[278] The funding for the Authority is to come from assessments for racing activities within each state.[279]

Effect of Proposed Changes

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. 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 and permanent sales tax benefits: two separate 14-day sales tax holidays for back-to-school; two separate 14-day sales tax holidays for disaster preparation supplies; one 3-month holiday for recreational items and activities; a 7-day sales tax holiday for skilled worker tools; a 1-year exemption on certain energy star appliances and gas ranges and cooktops; a reduction in the sales tax on commercial rent from 5.5% to 4.5%; and permanent exemptions for specified baby and toddler products and clothes, adult incontinence products, oral hygiene products, machinery and equipment used to produce renewable natural gas, certain agricultural fencing, firearm storage devices, and small private investigative agency services.

The bill also provides a number of property tax benefits, including: several changes to expand, clarify, or correct provisions related to homestead benefits for permanently and totally disabled veterans, first responders, and surviving spouses of either; allowing an educational facility to qualify for an exemption if they have a bona fide 98-year lease with nominal payments or have received an educational exemption for ten prior consecutive years; and making technical and clarifying changes to several sections of existing law.

D. FISCAL COMMENTS:

[278] Section 1203, Pub. L. No. 116-260.
[279] *Id.*

The Revenue Estimating Conference has not yet estimated the potential revenue impacts of many of the provisions of the bill. Those provisions are identified in the table below in the rows highlighted in blue and include staff estimates of the revenue impacts of these provisions. The provisions for which the REC has estimated the potential revenue impacts are reflected in the non-highlighted rows.

Staff estimates the total state and local impact of the bill in FY 2023-24 is -$1,161.1 million (-$303 million recurring), of which -$961.3 million (-$220 million recurring) is on General Revenue, -$2.3 million (-$4.9 million recurring) is on state trust funds, and -$197.5 million (-$78.1 million recurring) is on local government (see table below). Nonrecurring General Revenue, state trust fund, and local government impact in years beyond FY 2023-24 total -$78.6 million, -$1 million, and -$6.5 million, respectively. 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 -$1,268.6 million in tax reductions in the bill is the sum of -$303 million (recurring), -$879.5 million (pure nonrecurring in FY 2023-24), and -$86.1 million (pure nonrecurring after FY 2023-24).

Fiscal Year 2023-24 Estimated Fiscal Impacts (Millions of $)								
	FY 2023-24							
	General Revenue		Trust Fund		Local		Total	
Tax Package	**1st Year**	**Recur**	**1st Year**	**Recur**	**1st Year**	**Recur**	**1st Year**	**Recur**
Sales Tax: Adult Incontinence Products - Permanent	(19.9)	(21.7)	(*)	(*)	(5.3)	(5.8)	(25.2)	(27.5)
Sales Tax: Baby and Toddler Products - Permanent	(114.9)	(125.3)	(*)	(*)	(30.6)	(33.4)	(145.5)	(158.7)
Sales Tax: Oral Hygiene Products - Permanent	(28.7)	(31.4)	(*)	(*)	(7.7)	(8.4)	(36.4)	(39.8)
Sales Tax: Energy Star Appliances - 1 Year	(62.4)	-	(*)	-	(16.6)	-	(79.0)	-
Sales Tax: Gas Ranges and Cooktops - 1 Year	(5.0)	-	(*)	-	(1.3)	-	(6.3)	-
Sales Tax: Freedom Summer - 3 Months	(181.6)	-	(*)	-	(48.3)	-	(229.9)	-
Sales Tax: Back-to-School Sales Tax Holiday - 2 Holidays/2 Weeks Each	(126.8)	-	(*)	-	(33.8)	-	(160.6)	-
Sales Tax: Disaster Preparedness Holiday - 2 Holidays/2 Weeks Each	(113.6)	-	(*)	-	(30.2)	-	(143.8)	-
Sales Tax: Skilled Worker Tool Holiday - 7 Days	(12.2)	-	(*)	-	(3.2)	-	(15.4)	-
Sales Tax: Exempt Renewable Natural Gas Machinery and Equipment	(1.5)	(0.7)	(*)	(*)	(0.4)	(0.2)	(1.9)	(0.9)
Sales Tax: Exempt Firearm Storage Devices	(3.2)	(3.6)	(*)	(*)	(0.9)	(0.9)	(4.1)	(4.5)
Sales Tax: Private Investigative Services	(1.2)	(1.3)	(*)	(*)	(0.3)	(0.3)	(1.5)	(1.6)
Sales Tax: Fencing	(0.5)	(0.6)	(*)	(*)	(0.1)	(0.1)	(0.6)	(0.7)
Sales Tax: Business Rent Tax Rate Reduction	(191.2)	-	(*)	-	(24.8)	-	(215.9)	-
Sales Tax: Distribution for Horse Breeding and Racing Promotion	(27.5)	-	-	-	-	-	(27.5)	-
Ad Valorem: Parsonages and Burial Grounds	-	-	-	-	-	-	-	-
Ad Valorem: 197.319 Clean-up	-	-	-	-	-	-	-	-
Ad Valorem: Educational Property - 10 yrs.	-	-	-	-	(4.5)	(4.5)	(4.5)	(4.5)
Ad Valorem: Educational Property - 98 yr. lease	-	-	-	-	(*)	(*)	(*)	(*)
Ad Valorem: VAB Appeal Threshold Increase	-	-	-	-	(0.6)	(0.6)	(0.6)	(0.6)
Ad Valorem: Local Government Ian Refund Reimbursement	(35.0)	-	-	-	35.0	-	-	-
Ad Valorem: Definition of First Responder - Federal LEO	-	-	-	-	-	(*)	-	(*)
Ad Valorem: Surviving Spouse "Entitled to" Transfer - Clarification	-	-	-	-	-	-	-	-
Ad Valorem: Disabled Vet Refund - Year of Purchase	-	-	-	-	(0.1)	(0.2)	(0.1)	(0.2)
Ad Valorem: Residency Requirement Issue	-	-	-	-	-	-	-	-
Special Assessments: No Special Assessments on Agricultural Lands	-	-	-	-	(23.7)	(23.7)	(23.7)	(23.7)
Corp. Inc. Tax: Brownfields Tax Credit Cap Increase - Permanent	(25.0)	(25.0)	-	-	-	-	(25.0)	(25.0)
Corp. Inc. Tax: Residential Graywater Systems Tax Credit	(**)	-	-	-	-	-	(**)	-
Corp. Inc. Tax: Credit for Manufacturing of Human Breast Milk Fortifiers	(0.8)	-	-	-	-	-	(0.8)	-
Corp. Inc. Tax: Adoption of the Internal Revenue Code	-	-	-	-	-	-	-	-
Doc & Intang. Tax: 504 Loans	(*)	(*)	(*)	(*)	-	-	(*)	(*)
Fuel Tax: Natural Gas Fuel Taxes Delay	(*)	-	(0.2)	-	(0.1)	-	(0.3)	-
Local CST: Freeze Rate Increases Until Jan. 1, 2026	-	-	-	-	-	-	-	-
Local Option Tax: Local Food & Beverage Tax	-	-	-	-	0/**	0/**	0/**	0/**
Pari-Mutuel Tax: Credit Against Pari-mutuel Taxes - HISA compliance	(0.2)	(0.4)	(2.1)	(4.9)	-	-	(2.3)	(5.3)
Tourist Dev. Tax: Public Safety Services- Population Cap Increase	-	-	-	-	-	-	-	-
Tourist Dev. Tax: Public Safety Services- Certain Fiscally Constrained Counties	-	-	-	-	-	-	-	-
Multiple Taxes: Strong Families Tax Credit Cap Increase - Permanent	(10.0)	(10.0)	-	-	-	-	(10.0)	(10.0)
Multiple Taxes: Underpayment Penalty Calculation - Tax Donation Programs	0/(*)	(*)	-	-	-	-	0/(*)	(*)
Multiple Taxes: Local Tax Referenda	-	-	-	-	-	-	-	-
Appropriations: Implement Sales and Corporate Income Tax Provisions	(0.1)	-	-	-	-	-	(0.1)	-
Subtotal	**(961.3)**	**(220.0)**	**(2.3)**	**(4.9)**	**(197.5)**	**(78.1)**	**(1,161.1)**	**(303.0)**
Non-recurring Impacts After FY 2023-24								
Sales Tax: Energy Star Appliances - 1 Year	(5.7)	-	(*)	-	(1.5)	-	(7.2)	-
Sales Tax: Gas Ranges and Cooktops - 1 Year	(0.5)	-	(*)	-	(0.1)	-	(0.6)	-
Sales Tax: Business Rent Tax Rate Reduction	(35.5)	-	(*)	-	(4.6)	-	(40.1)	-
Sales Tax: Distribution for Horse Breeding and Racing Promotion	(27.5)	-	-	-	-	-	(27.5)	-
Corp. Inc. Tax: Residential Graywater Systems Tax Credit	(**)	-	-	-	-	-	(**)	-
Corp. Inc. Tax: Credit for Manufacturing of Human Breast Milk Fortifiers	(9.2)	-	-	-	-	-	(9.2)	-
Fuel Tax: Natural Gas Fuel Taxes Delay	(0.2)	-	(1.0)	-	(0.3)	-	(1.5)	-
Subtotal	**(78.6)**	**-**	**(1.0)**	**-**	**(6.5)**	**-**	**(86.1)**	**-**
Bill Total	**(1,039.9)**	**(220.0)**	**(3.3)**	**(4.9)**	**(204.0)**	**(78.1)**	**(1,247.2)**	**(303.0)**
							Pure Nonrecurring=	**(965.6)**
(*) Impact less than $50,000; (**) Impact is indeterminate; (+/-) impact could be positive or negative.							**Recurring + Nonrecurring=**	**(1,268.6)**
(1) Recurring tax cut total (excl. appropriations) =	**$ (303.0)**							
Pure nonrecurring tax cuts in FY 2023-24=	**$ (879.5)**							
Pure nonrecurring tax cuts after FY 2023-24=	**$ (86.1)**							
	$ (1,268.6)							