

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FINANCE AND TAX
Senator Hukill, Chair
Senator Abruzzo, Vice Chair

MEETING DATE: Monday, March 30, 2015
TIME: 4:00 —6:00 p.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Hukill, Chair; Senator Abruzzo, Vice Chair; Senators Altman, Diaz de la Portilla, Flores, Margolis, Simpson, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 268 Regulated Industries / Stargel (Similar H 641, Compare H 1233)	Amusement Games or Machines; Authorizing an amusement game or machine to be operated with specified requirements; providing requirements for classifying such a device as a Type 1 or a Type 2 amusement game or machine; providing that amusement games or machines may only be located at specified locations; requiring the Department of Revenue to annually adjust the maximum value; authorizing certain persons or entities to enjoin the operation of an amusement game or machine; providing penalties, etc. RI 02/04/2015 Temporarily Postponed RI 03/18/2015 Fav/CS FT 03/30/2015 Fav/CS AP	Fav/CS Yeas 8 Nays 0
2	SB 404 Simpson (Similar H 973, Compare CS/H 933)	Improvements to Real Property Damaged by Sinkhole Activity; Declaring that there is a compelling state interest in enabling property owners to voluntarily finance certain improvements to property damaged by sinkhole activity with local government assistance; expanding the definition of the term "qualifying improvement" to include stabilization or other repairs to property damaged by sinkhole activity; expanding the definition of "blighted area" to include a substantial number or percentage of properties damaged by sinkhole activity which are not adequately repaired or stabilized, etc. CA 02/17/2015 Favorable BI 03/10/2015 Temporarily Postponed BI 03/17/2015 Favorable FT 03/30/2015 Favorable RC	Favorable Yeas 8 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 544 Hukill (Identical H 613)	Exemption from the Sales and Use Tax for Certain Machinery and Equipment; Providing that the exemption for certain mixer drums and the parts and labor required to affix such mixer drums is repealed on a specified date; deleting the expiration date for the exemption for certain industrial machinery and equipment, etc. CM 03/23/2015 Favorable FT 03/30/2015 Favorable AP	Favorable Yeas 8 Nays 0
4	CS/SB 668 Community Affairs / Latvala (Similar CS/CS/H 209)	Emergency Fire Rescue Services and Facilities Surtax; Deleting a provision requiring the county governing authority to develop and execute interlocal agreements with local government entities providing emergency fire and rescue services; requiring a local government entity requesting and receiving certain personnel or equipment from another service provider to pay for such personnel or equipment from its share of surtax proceeds; deleting a provision requiring local government entities to enter into an interlocal agreement in order to receive surtax proceeds, etc. CA 03/04/2015 Fav/CS FT 03/30/2015 Fav/CS FP	Fav/CS Yeas 7 Nays 0
5	SB 722 Flores (Identical H 595)	Aviation Fuel Tax; Revising the tax rate of the excise tax on certain aviation fuels; deleting an excise tax exemption for certain aviation fuel delivered by licensed wholesalers or terminal suppliers that increase the state's workforce by certain amounts, etc. TR 03/05/2015 Favorable FT 03/30/2015 Fav/CS AP	Fav/CS Yeas 7 Nays 0
6	SB 972 Flores (Compare CS/H 695)	Value Adjustment Boards; Establishing deadlines for value adjustment boards to complete final tax roll certifications; revising the interest rate upon which unpaid and overpaid ad valorem taxes accrue; authorizing the district school board and district county commission to audit certain expenses of the value adjustment board; revising the entities that may represent a taxpayer before the value adjustment board, etc. CA 03/17/2015 Favorable FT 03/30/2015 Fav/CS AP	Fav/CS Yeas 7 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 980 Commerce and Tourism / Soto (Similar H 529)	Defense Contracting; Establishing the Defense Works in Florida Incentive; authorizing a Florida prime contractor to apply to the Department of Economic Opportunity to certify that it may reduce its computation of adjusted federal income by a specified amount; revising the definition of the term "adjusted federal income" to provide for a reduction in taxable income equal to a specified amount of qualified subcontract awards certified by the Department of Economic Opportunity, etc. CM 03/16/2015 Fav/CS FT 03/30/2015 Fav/CS AP	Fav/CS Yeas 7 Nays 0
8	SB 7052 Military and Veterans Affairs, Space, and Domestic Security	Ad Valorem Tax Exemption for Deployed Servicemembers; Expanding the military operations that qualify a servicemember deployed in support of such an operation in the previous calendar year for an additional ad valorem tax exemption; providing an extended deadline and specifying procedures for filing an application for such tax exemption for a qualifying deployment during the 2014 calendar year, etc. FT 03/30/2015 Fav/CS AP	Fav/CS Yeas 7 Nays 0
Consideration of proposed bill:			
9	SPB 7074	Tobacco Products other than Cigarettes or Cigars; Defining the term "affiliate"; clarifying the definitions of the terms "tobacco products" and "wholesale sales price"; providing that the act is intended to clarify existing law, etc.	Temporarily Postponed
(Preliminary Draft Available - final draft will be made available at least 24 hours prior to the meeting)			
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 268

INTRODUCER: Finance and Tax Committee; Regulated Industries Committee; and Senator Stargel and others

SUBJECT: Amusement Games or Machines

DATE: March 31, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 268 creates s. 546.10, F.S., to specify methods for activating amusement games and machines, the award of coupons, points, or prizes, limits upon prize values, and locations authorized for the operation of amusement games and machines. The bill:

- Includes a statement of legislative intent to ensure that provisions regulating amusement games or machines are not subject to abuse or interpreted in any manner as creating an exception to Florida's general prohibitions against gambling;
- Provides that in addition to the use of a coin, an amusement game may be activated by currency, card (not a credit or debit card), coupon, point, slug, token, or similar device, and is played by application of skill;
- Increases the maximum redemption value of coupons or points a player may receive for a single play of a skill-based game from 75 cents to \$5.25, with a maximum value of 100 times that amount (\$525) for an item of merchandise that may be obtained onsite using accumulated coupons or points won by a player;
- Increases the maximum wholesale cost of merchandise that may be dispensed directly to a player (e.g., "claw" machine) to 10 times that amount (\$52.50). The maximum values will be adjusted annually, based on changes in the consumer price index, beginning January 1, 2018; and
- Provides that amusement machines may be placed not only in arcades or truck stops (as currently authorized), but also in certain timeshare facilities, bowling centers, hotels,

restaurants, on the premises of certain retailers, and on the premises of certain veterans' service organizations.

II. Present Situation:

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴ Certain exceptions have been authorized, with restrictions on permitted locations, operators, and prizes, including penny-ante games,⁵ bingo,⁶ cardrooms,⁷ charitable drawings,⁸ game promotions (sweepstakes),⁹ bowling tournaments,¹⁰ and amusement games and machines.¹¹

Section 849.161, F.S., provides that gambling laws do not prohibit amusement games or machines that:

- Are activated by insertion of a coin;
- May entitle a player, by application of skill, to receive coupons or points—the cost value of which does not exceed 75 cents on any game played—that may be exchanged onsite for merchandise; and
- Are located at either an arcade amusement center with at least 50 coin-operated amusement games or machines or at a truck stop.

Current law specifically distinguishes and excludes the following from the exemption for authorized amusement games or machines:

- Casino-style games in which the outcome is determined by factors unpredictable by the player (s. 849.161(1)(a), F.S.);¹²

¹ Section 849.08, F.S.

² Section 849.01, F.S.

³ Section 849.09, F.S.

⁴ Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.

⁵ Section 849.085, F.S. Section 849.085(2)(a), F.S., provides that “[p]enny-ante game” means a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg in which the winnings of any player in a single round, hand, or game do not exceed \$10 in value.”

⁶ Section 849.0931, F.S.

⁷ Section 849.086, F.S.

⁸ Section 849.0935, F.S.

⁹ Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁰ Section 849.141, F.S.

¹¹ Section 849.161, F.S.

¹² In *Deeb v. Stoutamire*, 53 So.2d 873, 874 (Fla. 1951), in a challenge that a miniature bowling alley game was a slot machine, the Florida Supreme Court distinguished the characteristics “which we think differentiate an innocent machine, vending amusement or entertainment, from a guilty one affording a means of gambling,” and held that the element of unpredictability “must be inherent in the machine.” Slot machines were defined as devices that operated, as a result of the insertion of a coin, based on “any element of chance” or other outcome unpredictable by the player, and allowed the player to receive any “thing of value.” The Court determined that the element of unpredictability “is not supplied because a player may not be sure what score he can accomplish.” In addressing whether a device would be removed from a “standing of respectability and legality to one of one-armedbanditry,” the Court stated “[w]e all know full well the vicious devices the cited statute [s. 849.16, F.S.] was calculated to destroy, but we know also that a too drastic and intolerant interpretation of an act of this kind may well result in undermining its true and lofty purpose.” *Id.* at 875. The Court reversed the trial court’s decision, as the amusement device at issue was not a prohibited slot machine. *Id.*

- Games in which the player does not control the outcome through skill (s. 849.161(1)(a), F.S.);
- Any game or device defined as a gambling device¹³ in 15 U.S.C. s. 1171,¹⁴ unless excluded under s. 1178 (s. 849.161(4), F.S.);¹⁵ or
- Video poker games or any other game or machine that may be construed as a gambling device under Florida law (s. 849.161(4), F.S.).

Section 212.02(24), F.S., defines coin-operated amusement games as those operated by coin, slug, token, coupon, or similar device “for the purposes of entertainment or amusement.” Accordingly, operators¹⁶ of coin-operated pinball machines, music machines, juke boxes, mechanical games, video games, arcade games, billiard tables, moving picture viewers, shooting galleries, and all other similar amusement devices, must pay for and conspicuously display a certificate authorizing the operation of a specified number of machines.¹⁷

¹³ In 1952, a “digger machine” in which a player inserted a coin for an opportunity to pick up prizes enclosed in a case by means of a mechanical claw, was found to be a prohibited “gambling device” within the provisions of 15 U.S.C. s. 1171 - s. 1178 (titled “An Act to prohibit transportation of gambling devices in interstate and foreign commerce” which was approved January 2, 1951 (ch. 1194, 64 Stat. 1134) (the “1951 Gambling Devices Act”). The machine was a prohibited gambling device because it was a game of chance. *See U.S. v. 10, More or Less, Digger Machines*, 109 F. Supp. 825, 827 (E.D. Mo. 1952), where the court stated: “This device impresses this Court as a machine, subject to and cunningly equipped, providing just enough control in the customer to entice those who attend carnivals and street fairs to try to get something for comparatively nothing, under the illusion that it is a game of skill and not one of chance. They are on display for the enticement, not of experts with years of experience, but for the usual carnival frequenter. They are in fact and for all practical purposes, i. e. profit to owner and loss to operator or public, a game of chance.” The evidence showed that at a certain point, before a prize was won, the machine proceeded “on its own power independent of” any action by the player or ability of the player to control it.

¹⁴ The 1951 Gambling Devices Act (see note 13 supra) was amended by Public Law 87-840, the Gambling Devices Act of 1962 (the “Gambling Devices Act”). The term “gambling device” in Section 2 was modified to refer to devices including but not limited to roulette wheels and similar devices “designed and manufactured primarily” for gambling, and which may deliver or entitle a player to money or property as the result of the application of chance. The phrase “operation by means of insertion of a coin, token, or similar object” was deleted from the definition of “gambling devices.” These three categories of machines or devices were excluded entirely from the provisions of the Gambling Devices Act:

1. Pari-mutuel betting machinery for use at a racetrack;
2. A coin-operated bowling alley, a shuffleboard, marble machine or pinball machine, or mechanical gun, if they are not designed and manufactured primarily for gambling, and which when operated do not deliver, as the result of the application of chance, any money or property, or entitle a person to receive any money or property as the result of the application of chance; and
3. Any so-called claw, crane, or digger machine and similar devices which are not operated by coin, are actuated by a crank, and are designed and manufactured primarily for use at carnivals or county or state fairs.

The amusement games or machines that are not designed and manufactured primarily for gambling, and deliver or entitle a player to receive money or property as the result of the application of skill rather than by chance, are not intended to come within any of the provisions of the Gambling Devices Act.

¹⁵ Gambling devices such as slot machines are addressed in ch. 551, F.S. In s. 849.15(2), F.S., the Legislature has determined that those counties in Florida where slot machine gaming is authorized pursuant to ch. 551, F.S., are exempt from the provisions of Section 2 of the Gambling Devices Act. *See* s. 849.15(2), F.S. *See* s. 849.231, F.S., for provisions related to the manufacture, sale, purchase, or possession of gambling devices in Florida.

¹⁶ For purposes of the payment of taxes on the use of amusement machines, “operator” means “any person who possesses a machine to generate sales through it and is responsible for removing receipts from it. *See* s. 212.05(1)(h)2., F.S.

¹⁷ *See* s. 212.05(1)(h)3.a. and b., F.S. Each certificate is non-transferrable and specifies the maximum number of machines authorized to be operated for each location. A certificate must be obtained before machines are first operated in the state and by July 1 of each year thereafter. The annual fee is based on the number of machines multiplied by \$30.

A four percent tax is imposed on charges for the use of coin-operated amusement machines.¹⁸ If a machine is activated by a slug, token, coupon, or any similar device which has been purchased by a user, the four percent tax is imposed on the purchase price amount.¹⁹

Section 849.21, F.S., provides that any person may petition in circuit court for a writ of injunction against a nuisance created through the use, manufacture, ownership, storage, possession, sale, lease, transport, or operation of a “slot machines or device” outside of eligible facilities.²⁰ Current law also provides that no bond is required when petitioning for a temporary injunction and that the judge may issue a restraining order to prevent removal or interference with the offending equipment.

In March 2013, a three-year, multi-state, multi-agency investigation into the operations of illegal gambling at so-called internet cafes affiliated with Allied Veterans of the World concluded with the arrest of 57 people.²¹ Charges included racketeering and money laundering.²² Recently, the Manatee County Sheriff’s seized 500 illegal gambling devices at multiple locations.²³

During the 2013 Regular Legislative Session, ch. 2013-2, L.O.F. was enacted. This bill made several changes to s. 849.0935, F.S., s. 849.094, F.S., s. 849.16, F.S. and s. 849.161, F.S., to address the growing problem of casino-style internet cafes and senior arcades that existed in many parts of Florida. The definition of slot machine in s. 849.16(1), F.S. was amended to include operation by a user “whether by application of skill or by reason of any element of chance or of any other outcome of such operation unpredictable by the user him or her”²⁴

After the 2013 Regular Legislative Session, third parties cited s. 849.21, F.S., in petitions for injunctions against amusement arcades, including Chuck E. Cheese’s, Dave & Buster’s, and Festival Fun Parks (Boomers!). Two cases remain pending.²⁵

III. Effect of Proposed Changes:

Section 1 creates s. 546.10, F.S., to provide legislative intent respecting regulation of the operation of skill-based amusement games or machines at limited locations, in order to prevent expansion of casino-style gambling. It states the compelling state interest for clarifying the

¹⁸ See s. 212.05(1)(h)1, F.S. for the method of calculation.

¹⁹ *Id.*

²⁰ See ss. 849.15 to 849.23, F.S.; however, such activities respecting slot machines located in or destined for certain eligible pari-mutuel facilities defined in ss. 551.102, F.S., or the facilities of manufacturers or distributors as provided in s. 551.109(2)(a), F.S., are not prohibited nuisances, and are regulated under ch. 551, F.S.

²¹ Mary Ellen Klas, *Bill Banning Internet Cafes Becomes Law in Florida*, Governing, (April 11, 2013), available at <http://www.governing.com/news/state/mct-bill-banning-internet-cafes-becomes-law-in-florida.html> (last visited Mar. 20, 2015).

²² Arrests From The Allied Veterans of the World Investigation, available at <http://jacksonville.com/content/arrests-allied-veterans-world-investigation#slide-1> (last visited Mar. 20, 2015).

²³ See http://www.bradenton.com/2015/03/16/5694034_sheriff-thousands-of-dollars-hundreds.html?rh=1 (last visited Mar. 20, 2015).

²⁴ See Section 4, ch. 2013-2, Laws of Fla.

²⁵ The two pending cases are *Nebb v. CEC Entertainment, Inc., d/b/a Chuck E. Cheese*, Case No. CACE-13-024356 (03), Broward County Circuit Court and *DeVarona v. Dave & Buster’s*, Case No. CACE-13-016547 (09), Broward County Circuit Court. The case styled *Forst v. Festival Fun Parks, LLC*, Case No. 2013 CA 010200 AB, Palm Beach County Circuit Court, was directed to be administratively closed by the Court on January 20, 2015.

operation and use of amusement games or machines, to ensure that amusement games or machines are not subject to abuse or interpreted in any manner as creating an exception to Florida's general prohibitions against gambling. It expands the definition of "amusement game or machine," to include not only coin-operated machines, but also machines activated by insertion of currency, cards, coupons, points, slugs, tokens, or similar devices. The definition includes the current law provision that the amusement machine be operated for the entertainment of the general public.

The bill includes the current law provisions that the term "amusement games or machines" does not include any game or machine that uses mechanical slot reels, video depictions of slot machine reels or symbols, or video simulations or video representations of any other casino game, including, but not limited to, any banked or banking card game, poker, bingo, pull-tab, lotto, roulette, or craps; or "games in which the player does not control the outcome of the game through skill." The bill expands the current definition of amusement machine by repeating language from subsection (4) of the current law that authorized games do not include:

- Video poker games or any other game or machine that may be construed as a gambling device under Florida law; or
- Any game or device defined as a gambling device in 15 U.S.C. s. 1171, unless excluded under s. 1178.²⁶

The bill includes the current law definition in s. 849.161(1)(b), F.S., for "arcade amusement center."

The bill defines "card" to mean a card other than a credit card or debit card which:

- Is used to activate an amusement game or machine;
- Contains a microprocessor chip, magnetic stripe, or other means for storing, retrieving, and transferring information, including information regarding coupons or points that are won and may be redeemed for merchandise;
- Is prefunded; and
- Is diminished by the cost of play, to reduce the prefunded value.

Prohibition against material element of chance inherent in amusement games—The bill enumerates indicators of the existence of a prohibited "material element of chance" inherent in an amusement game. The phrase "material element of chance inherent in the game or machine" means any of the following:

- The possibility that a player will win the game is determined by prior wins or prior losses of players (outside influence that affects the win);
- The outcome of a game is not based solely on the player achieving the object of the game or on how much the player scores (outside influence that varies the result);
- The number of the coupons or points awarded, or the value of the prize awarded, for successfully playing the game can be controlled by a source other than the player or players playing the game (outside influence that varies the result);

²⁶ See *supra* note 13.

- The ability of the player to win is determined by a game feature or design that changes the effect of the player's actions and that is not discernible or known by the player (outside influence that varies the result);
- The accomplishment of the player's task requires the exercise of a skill that no player could exercise (outside influence that varies the result);
- A computer-based or mechanical random number generator or other factor that is not discernible, known, or predictable by the player determines the outcome or winner of the game (outside influence varies the result); and
- The game is designed or adapted with a control device to allow manipulation of the game by the operator, to prevent a player from winning or to predetermine which player will win (outside influence that varies the result).

The bill addresses the requirements for Type 1 amusement machines respecting the award to a player of free replays, redeemable coupons or points, accumulation and redemption of coupons and points for onsite merchandise. The bill sets out the requirements for Type 2 amusement machines (claw/crane machines), and the prizes that may be dispensed directly from that type of amusement machine.

Free replays—Subsection (5) provides the requirements for a Type 1 amusement machine to allow a player (by application of skill) to win free replays. The provisions in current law that an amusement machine cannot accumulate more than 15 free replays or make a permanent record of free replays are not changed. Winning a free replay may not entitle the player to receive any merchandise or a coupon or point that may be exchanged for merchandise, and a free replay may not be exchanged for anything of value. There are no replays in claw/crane machine games; a prize is either won or not.

Authorized locations of Type 1 amusement machines that dispense coupons or points to players to redeem for onsite merchandise—A Type 1 amusement machine allows a player (by application of skill), to receive coupons or points that can be redeemed onsite for merchandise, subject to the following conditions:

- The amusement machine is located at a timeshare facility as defined in s. 721.05(17), F.S., a hotel or restaurant; or an arcade amusement center, a bowling center, or a truck stop if the owner or operator of the premises has a current license issued by DBPR pursuant to ch. 509, F.S., or chs. 561-568, F.S.
- Coupons or points have no value other than for redemption onsite for merchandise;
- The redemption value²⁷ of coupons or points a person receives for a single game played does not exceed the maximum value specified in subsection (8), which is set at \$5.25 initially and adjusted for inflation annually; and
- The redemption value of coupons or points a person receives for playing multiple games simultaneously or competing against others in a multi-player game, does not exceed the maximum value specified in subsection (8).

²⁷ The bill defines "redemption value" as the imputed value of coupons or points, based on the wholesale cost of merchandise for which those coupons or points may be redeemed. *See* s. 849.161(1)(e), F.S.

Authorized locations of Type 2 amusement machines that dispense direct merchandise from the machine to players—A Type 2 amusement machine allows a player (by application of skill), to receive merchandise directly,²⁸ subject to the following conditions:

- The wholesale cost of the merchandise may not exceed 10 times the maximum specified in subsection (8).
- The amusement machine is located at a timeshare facility as defined in s. 721.05(17), F.S., an arcade amusement center, truck stop, bowling center, hotel, restaurant, or on the premises of a retailer as defined in s. 212.02, F.S.; or the premises of a veterans' service organization granted a federal charter, or a division, department, post, or chapter of such organization, for which an alcoholic beverage license has been.

Merchandise and Maximum Value—Subsection (1)(f) of the bill amends the definition of “merchandise” to specifically exclude not only (1) cash equivalents (gift cards and certificates)²⁹ and (2) alcoholic beverages, but also (3) coins, cards, coupons, points, slugs, tokens, or similar devices that can be used to activate a skill-based game, and (4) coupons or points with a redemption value higher than the maximum legal value. The maximum value is currently 75 cents, but is proposed to be adjusted for inflation to \$5.25 with annual adjustments by the Department of Revenue,³⁰ beginning January 1, 2018. Merchandise must be maintained on the premises by the operator of the amusement machine.

- For Type 1 amusement machines, the maximum value of coupons or points a player may receive for a single play of a skill-based game is increased from 75 cents to \$5.25, with a maximum value of 100 times that amount (\$525) for an item of merchandise that may be obtained onsite using accumulated coupons or points won by a player; and
- For Type 2 amusement machines, the maximum wholesale cost of merchandise that may be dispensed directly to a player (from a claw/crane machine) to 10 times that amount (\$52.50).

Subsection (8) provides that the maximum value on the redemption value of coupons or points is set at \$5.25 initially and adjusted for inflation annually. The bill provides that the Department of Revenue will annually adjust the maximum value based on the change in the Consumer Price Index for All Urban Consumers, U.S. City Average. The maximum value will remain at \$5.25 until the initial adjustment to the maximum value is effective January 1, 2018. The adjusted maximum value will be published in a brochure accessible from the Department of Revenue's website relating to sales and use tax on amusement machines.³¹

²⁸ An amusement machine that dispenses merchandise with “an unpredictable outcome or chance which is inherent in the machine” qualifies as a slot machine. *See* Fla. AGO 1989-05 (January 27, 1989), in which s. 849.161, F.S., “makes Ch. 849, F.S., inapplicable to “arcade amusement centers” with amusement machines “which by application of skill entitle the person playing to receive coupons or points which may be exchanged for merchandise only” *Id.* at footnote 4.

²⁹ Section 501.95(1)(b), F.S., defines “gift certificate” as “a certificate, gift card, stored value card, or similar instrument purchased for monetary consideration when the certificate, card, or similar instrument is redeemable for merchandise, food, or services regardless of whether any cash may be paid to the owner of the certificate, card, or instrument as part of the redemption transaction, but this term shall not include tickets as specified in s. 717.1355 or manufacturer or retailer discounts and coupons.”

³⁰ *See* s. 546.10(8) in Section 1 of the bill.

³¹ The current web address for the Department of Revenue's publication relating to sales and use tax on amusement machines available at <http://dor.myflorida.com/dor/forms/current/gt800020.pdf> (last visited Mar. 20, 2015).

Notwithstanding any other provision of law, the filing of actions to enjoin the operation of any game or machine for an alleged violation of s. 546.10, F.S., or of ch. 849, F.S., respecting gambling, may be brought only by the following parties:

- The Attorney General;
- The state attorney of the circuit where the amusement machine is located;
- Any federally recognized tribal government with sovereign powers and rights of self-government that is a party to a compact with the state;
- The Department of Agriculture and Consumer Services or the Department of Business and Professional Regulation, in the case of a duty to enforce an alleged violation of law;
- Any substantially affected person³² who is a resident of the county where the place of business operating the game is located; or
- Any substantially affected person who has a business or residence within 5 miles of the place of business operating the game or machine.

The penalties for violation of the requirements for the operation of amusement games or machines mirror those the penalties in existing law that may be imposed upon violators of ch. 849, F.S., regarding gambling, as follows:

- A conviction on a first offense is a second degree misdemeanor (jail time not more than 60 days; up to \$500 fine);
- A second conviction is a first degree misdemeanor (jail time not more than one year; up to \$1,000 fine);
- After two convictions, the third conviction is a third degree felony (jail time not more than five years; up to \$5,000 fine), but an enhancement in sentencing is possible (jail time up to 10 years) but only if the court finds the violator is an habitual felony offender after a second felony conviction, and the court finds it is necessary to do so for the protection of the public.

In addition, all other civil, administrative, and criminal sanctions, may be imposed against violators who do not comply with the requirements for operation of amusement games or machines.

The bill includes editorial revisions and technical changes to conform to bill drafting conventions.

Section 2 updates a cross reference in s. 551.102, F.S., defining slot machines.

Section 3 repeals s. 849.161, F.S.

Section 4 of the bill provides for an effective date of July 1, 2015.

³² Substantially affected persons must have a substantial interest in the outcome of the proceeding, must show that an injury in fact has or will occur, and that the injury is of a type that the proceeding is designed to protect. *See Agrico Chemical Co. v. Dep't of Env. Reg.*, 406 So.2d 478, 483 (Fla 2d DCA 1981).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The law currently requires registration with the Department of Revenue of (a) all amusement machine operators as defined in s. 212.05(1)(h)2., F.S., and (b) all amusement machines by location. The bill retains the requirement that amusement game or machine operators must comply with those registration requirements and pay the associated fees for such registration.

C. Government Sector Impact:

According to the Department of Revenue (department), the total state revenue from amusement machines for Fiscal Year 2013-2014 was approximately \$7.1 million, and the total certificate fees paid (\$30 per machine) during that time was approximately \$1.2 million.³³ The bill requires the department to annually recalculate the maximum value for the redemption of a coupon or a point received by a player and to publish the maximum value, as adjusted, in a brochure accessible on its website relating to sales and use tax on amusement games or machines.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

³³ E-mail from Lynne Moeller, Legislative Affairs Office, Florida Department of Revenue, to Mary Kraemer (Feb. 3, 2015) (on file with the Senate Committee on Regulated Industries).

VIII. Statutes Affected:

This bill amends section 551.102 of the Florida Statutes.

This bill creates section 546.10 of the Florida Statutes.

This bill repeals section 849.161 of the Florida Statutes.

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

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

CS/CS by Finance and Tax on March 30, 2015:

CS/CS/SB 268 adds timeshare facilities as defined in s. 712.05(17), F.S., to the list of allowable locations for Type 1 and Type 2 amusement games, and changes the definition of “card” used to activate an amusement game to allow for a card whose value does not diminish upon each activation. This change allows the use of cards that are prefunded for some fixed period of time.

CS by Regulated Industries on March 18, 2015:

CS/SB 268 creates s. 546.01, F.S., respecting amusement games or machines operated for the entertainment of the general public (amusement machines). Existing s. 849.161, F.S., exempting amusement machines from the provisions of ch. 849, F.S., is repealed. The definition of slot machine in s. 551.102, F.S., is amended to conform the related cross reference.

The committee substitute includes a statement of legislative intent respecting regulation of the operation of skill-based amusement machines at limited locations, in order to prevent expansion of casino-style gambling and to ensure that the provisions regulating amusement machines are not subject to abuse or interpreted in any manner as an exception to the prohibitions against gambling.

The committee substitute updates activation methods for amusement machines; in addition to coins, a prefunded card (excluding a credit card or debit card) may activate amusement machines if the prefunded value is diminished upon each activation by the cost of play.

The committee substitute describes factors indicating the existence of a “material element of chance inherent in a game or machine” that is prohibited in an amusement machine. The committee substitute provides that the term “random number generators” includes mechanical random number generators as well as those that are computer-based.

A distinction is made between Type 1 amusement machines that issue coupons or points to winning players that may be accumulated or redeemed by players in exchange for merchandise obtained onsite, or that grant the right to limited replays of the game without additional payment by the player, and Type 2 amusement machines that allow a player to manipulate a claw or similar device within a closed space (claw/crane game) to receive merchandise directly from the amusement machine. References in subparagraphs (5) and

(6) of the bill to “the application of skill” were deleted, as that phrase appears in the definition of “amusement game or machine” in subsection (3).

The committee substitute authorizes the following entities in addition to the arcade amusement centers and truck stops already authorized in existing law, to have Type 1 and Type 2 amusement machines on their premises under certain conditions:

- Bowling centers with a minimum of 12 bowling lanes; and
- Public food and lodging establishments licensed by the Department of Business and Professional Regulation.

The committee substitute authorizes retailers, and qualified veterans’ service organizations that have been issued an alcoholic beverage license, to have Type 2 amusement machines (claw/crane machines) on their premises.

The committee substitute updates the redemption value of coupon or points received for a single game played on a Type 1 amusement game from 75 cents to \$5.25 (the maximum value), and limits the maximum wholesale cost of merchandise that may be obtained by redeeming coupons or points to \$525 (100 times the maximum value of \$5.25).

The committee substitute limits the prize value for Type 2 amusement machines (claw/crane machines) to \$5.25, and limits the maximum whole cost of prizes that may be obtained directly from Type 2 games to \$52.50 (10 times the maximum value of \$5.25).

The committee substitute adds to the definition of “merchandise” that prizes be maintained on the premises of the operator of the amusement games or machines, and all references to “onsite” merchandise are deleted. Uses of the term “wholesale value” were conformed to “wholesale cost” for uniformity.

The maximum value amount will be adjusted annually by the Department of Revenue, based on changes in the consumer price index, beginning January 1, 2018.

The committee substitute provides that in addition to the criminal penalties set forth in the bill (which are identical to those in s. 849.23, F.S.), all other civil, administrative, and criminal sanctions may be imposed against violators who do not comply with the requirements for operation of amusement games or machines.

B. Amendments:

None.



177080

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2015	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Simpson) recommended the following:

Senate Amendment

Delete lines 64 - 71
and insert:

(c) "Card" means a card other than a credit card or debit card which is used to activate an amusement game or machine; which contains a microprocessor chip, magnetic stripe, or other means for storing, retrieving, and transferring information, including information regarding coupons or points that are won and that may be redeemed for merchandise; which is prefunded;



177080

11 and for which the prefunded value is diminished by the cost of
12 play.



477572

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/31/2015	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Simpson) recommended the following:

Senate Amendment

Delete lines 173 - 189
and insert:

1. A timeshare facility as defined in s. 721.05(17);
2. The following premises, if the owner or operator of the premises has a current license issued by the Department of Business and Professional Regulation pursuant to chapter 509 or chapters 561-568;
 - a. An arcade amusement center;



477572

- 11 b. A bowling center, as defined in s. 849.141;
12 c. A public lodging establishment or public food service
13 establishment licensed pursuant to chapter 509; or
14 d. A truck stop.
15 (b) A Type 2 amusement game or machine may only be located
16 at:
17 1. A timeshare facility as defined in s. 721.05(17);
18 2. An arcade amusement center;
19 3. A bowling center, as defined in s. 849.141;
20 4. The premises of a retailer, as defined in s. 212.02;
21 5. A public lodging establishment or public food service
22 establishment licensed pursuant to chapter 509;
23 6. A truck stop; or
24 7. The premises of a veterans' service organization granted
25 a federal charter under Title 36, United States Code, or a
26 division, department, post, or chapter of such organization, for
27 which an alcoholic beverage license has been issued.



845292

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2015	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Simpson) recommended the following:

Senate Substitute for Amendment (477572)

Delete lines 173 - 189

and insert:

1. A timeshare facility as defined in s. 721.05(17);

2. A public lodging establishment or public food service establishment licensed pursuant to chapter 509;

3. The following premises, if the owner or operator of the premises has a current license issued by the Department of Business and Professional Regulation pursuant to chapter 509 or



845292

11 chapters 561-568:

12 a. An arcade amusement center;

13 b. A bowling center, as defined in s. 849.141; or

14 c. A truck stop.

15 (b) A Type 2 amusement game or machine may only be located

16 at:

17 1. A timeshare facility as defined in s. 721.05(17);

18 2. An arcade amusement center;

19 3. A bowling center, as defined in s. 849.141;

20 4. The premises of a retailer, as defined in s. 212.02;

21 5. A public lodging establishment or public food service

22 establishment licensed pursuant to chapter 509;

23 6. A truck stop; or

24 7. The premises of a veterans' service organization granted

25 a federal charter under Title 36, United States Code, or a

26 division, department, post, or chapter of such organization, for

27 which an alcoholic beverage license has been issued.

28

By the Committee on Regulated Industries; and Senators Stargel
and Latvala

580-02528A-15

2015268c1

1 A bill to be entitled
2 An act relating to amusement games or machines;
3 creating s. 546.10, F.S.; providing legislative
4 findings; defining terms and phrases; authorizing an
5 amusement game or machine to be operated with
6 specified requirements; providing requirements for
7 classifying such a device as a Type 1 or a Type 2
8 amusement game or machine; providing that amusement
9 games or machines may only be located at specified
10 locations; specifying the maximum value on the
11 redemption value of a coupon or a point; requiring the
12 Department of Revenue to annually adjust the maximum
13 value; providing a formula for the adjustment of the
14 maximum value; requiring the department to publish the
15 amount of the adjusted maximum value; authorizing
16 certain persons or entities to enjoin the operation of
17 an amusement game or machine; providing penalties;
18 amending s. 551.102, F.S.; conforming a cross-
19 reference; repealing s. 849.161, F.S., relating to
20 amusement games or machines; providing an effective
21 date.
22
23 Be It Enacted by the Legislature of the State of Florida:
24
25 Section 1. Section 546.10, Florida Statutes, is created to
26 read:
27 546.10 Amusement games or machines.-
28 (1) The Legislature finds that regulation of the operation
29 of skill-based amusement games or machines at specified

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580-02528A-15

2015268c1

30 locations to ensure compliance with the requirements of law is
31 appropriate to prevent expansion of casino-style gambling.
32 (2) Therefore, the Legislature finds that there is a
33 compelling state interest in clarifying the operation and use of
34 amusement games or machines to ensure that provisions regulating
35 these devices are not subject to abuse or interpreted in any
36 manner as creating an exception to the state's general
37 prohibitions against gambling.
38 (3) As used in this section, the term:
39 (a) "Amusement game or machine" means a game or machine
40 operated only for the bona fide entertainment of the general
41 public which a person activates by inserting or using currency
42 or a coin, card, coupon, slug, token, or similar device, and, by
43 the application of skill, with no material element of chance
44 inherent in the game or machine, the person playing or operating
45 the game or machine controls the outcome of the game. The term
46 does not include:
47 1. Any game or machine that uses mechanical slot reels,
48 video depictions of slot machine reels or symbols, or video
49 simulations or video representations of any other casino game,
50 including, but not limited to, any banked or banking card game,
51 poker, bingo, pull-tab, lotto, roulette, or craps.
52 2. A game in which the player does not control the outcome
53 of the game through skill or a game where the outcome is
54 determined by factors not visible, known, or predictable to the
55 player.
56 3. A video poker game or any other game or machine that may
57 be construed as a gambling device under the laws of this state.
58 4. Any game or device defined as a gambling device in 15

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59 U.S.C. s. 1171, unless excluded under s. 1178.

60 (b) "Arcade amusement center" means a place of business
 61 having at least 50 amusement games or machines on premises which
 62 is operated for the entertainment of the general public and
 63 tourists as a bona fide amusement facility.

64 (c) "Card" means a card other than a credit card or debit
 65 card which is used to activate an amusement game or machine;
 66 which contains a microprocessor chip, magnetic stripe, or other
 67 means for storing, retrieving, and transferring information,
 68 including information regarding coupons or points that are won
 69 and that may be redeemed for merchandise; which is prefunded;
 70 and for which the prefunded value is diminished upon each
 71 activation by the cost of play.

72 (d) "Game played" means the event beginning with the
 73 activation of the amusement game or machine and ending when the
 74 results of play are determined without the insertion or the use
 75 of any additional currency, coin, card, coupon, slug, token, or
 76 similar device to continue play. A free replay is not a separate
 77 game played.

78 (e) The phrase "material element of chance inherent in the
 79 game or machine" means any of the following:

80 1. The possibility of the player succeeding at the game or
 81 accomplishing the player's task is determined by the number or
 82 ratio of prior wins or prior losses of players playing the game.

83 2. An award of value is not based solely on the player
 84 achieving the object of the game or on the player's score.

85 3. The number of the coupons or points awarded or the value
 86 of the prize awarded for successfully playing the game can be
 87 controlled by a source other than the player or players playing

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2015268c1

88 the game.

89 4. The ability of the player to succeed at the game is
 90 determined by a game feature or design that changes the effect
 91 of the player's actions and that is not discernible or known by
 92 the player.

93 5. The accomplishment of the player's task requires the
 94 exercise of a skill that no player could exercise.

95 6. A computer-based or mechanical random number generator
 96 or other factor that is not discernible, known, or predictable
 97 by the player determines the outcome or winner of the game.

98 7. The game is designed or adapted with a control device to
 99 allow manipulation of the game by the operator in order to
 100 prevent a player from winning or to predetermine which player
 101 will win.

102 (f) "Merchandise" means noncash prizes maintained on the
 103 premises by the operator of the amusement game or machine,
 104 including toys and novelties. The term does not include:

105 1. A cash equivalent, such as a gift card or certificate.

106 2. An alcoholic beverage.

107 3. A card, coupon, point, slug, token, or similar device
 108 that can be used to activate an amusement game or machine.

109 4. A coupon or a point that has a redemption value greater
 110 than the maximum value determined under subsection (8).

111 5. Any prize or other item, if the exchange or conversion
 112 to cash or a cash equivalent is facilitated or permitted by the
 113 owner or operator of the game or machine.

114 (g) "Redemption value" means the imputed value of a coupon
 115 or a point, based on the wholesale cost of merchandise for which
 116 the individual may redeem the coupon or point.

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117 (h) "Truck stop" means a dealer registered pursuant to
 118 chapter 212, excluding a marina, which:
 119 1. Declares the sale of diesel fuel to be its primary fuel
 120 business; and
 121 2. Operates at least six functional diesel fuel pumps.
 122 (4) Notwithstanding any other provision of law, an
 123 amusement game or machine may be operated as provided in this
 124 section.
 125 (5) A Type 1 amusement game or machine is an amusement game
 126 or machine that may entitle or enable a person to:
 127 (a) Replay the game or device without the insertion or the
 128 use of any additional currency, coin, card, coupon, slug, token,
 129 or similar device, if:
 130 1. The amusement game or machine can accumulate and react
 131 to no more than 15 such replays;
 132 2. The amusement game or machine can be discharged of
 133 accumulated replays only by reactivating the game or device for
 134 one additional play for each accumulated replay;
 135 3. The amusement game or machine cannot make a permanent
 136 record, directly or indirectly, of any free replay;
 137 4. The amusement game or machine does not entitle the
 138 player to receive any merchandise or a coupon or a point that
 139 may be redeemed for merchandise;
 140 5. An unused free replay may not be exchanged for anything
 141 of value, including merchandise or a coupon or a point that may
 142 be redeemed for merchandise; and
 143 6. The amusement game or machine does not contain any
 144 device that awards a credit and contains a circuit, meter, or
 145 switch capable of removing and recording the removal of a credit

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146 if the award of a credit is dependent upon chance; or
 147 (b) Receive a coupon or a point that may only be redeemed
 148 for merchandise, if:
 149 1. The coupon or point has no value other than for
 150 redemption for merchandise;
 151 2. The redemption value of the coupon or point a person
 152 receives for a single game played does not exceed the maximum
 153 value determined under subsection (8). However, a player may
 154 accumulate coupons or points to redeem for merchandise if there
 155 is no single item of merchandise which has a wholesale cost of
 156 more than 100 times the maximum value determined under
 157 subsection (8), or for a prize consisting of more than one item,
 158 unit, or part, if the aggregate wholesale cost of all items,
 159 units, or parts does not exceed 100 times the maximum value
 160 determined under subsection (8); and
 161 3. The redemption value of coupons or points that a person
 162 receives for playing multiple games simultaneously or competing
 163 against others in a multiplayer game does not exceed the maximum
 164 value determined under subsection (8).
 165 (6) A Type 2 amusement game or machine is an amusement game
 166 or machine that allows the player to manipulate a claw or
 167 similar device within an enclosure and entitles or enables a
 168 person to receive merchandise directly from the game or machine,
 169 if the wholesale cost of the merchandise does not exceed 10
 170 times the maximum value determined under subsection (8).
 171 (7) (a) A Type 1 amusement game or machine may only be
 172 located at:
 173 1. An arcade amusement center;
 174 2. A bowling center, as defined in s. 849.141;

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175 3. A public lodging establishment or public food service
 176 establishment licensed pursuant to chapter 509; or
 177 4. A truck stop.
 178 (b) A Type 2 amusement game or machine may only be located
 179 at:
 180 1. An arcade amusement center;
 181 2. A bowling center, as defined in s. 849.141;
 182 3. The premises of a retailer, as defined in s. 212.02;
 183 4. A public lodging establishment or public food service
 184 establishment licensed pursuant to chapter 509;
 185 5. A truck stop; or
 186 6. The premises of a veterans' service organization granted
 187 a federal charter under Title 36, United States Code, or a
 188 division, department, post, or chapter of such organization, for
 189 which an alcoholic beverage license has been issued.
 190 (8) For purposes of this section, the "maximum value" is
 191 \$5.25. Beginning September 30, 2017, and annually thereafter,
 192 the Department of Revenue shall calculate the maximum value as
 193 adjusted by the rate of inflation for the 12 months before
 194 September 1, rounded to the nearest 5 cents. In calculating the
 195 adjusted maximum value, the department shall multiply the prior
 196 maximum value by one plus the percentage change in the Consumer
 197 Price Index for All Urban Consumers, U.S. City Average, All
 198 Items, not seasonally adjusted, or a successor index as
 199 calculated by the United States Department of Labor. Each
 200 adjusted maximum value shall take effect on the following
 201 January 1, with the initial adjusted maximum value to take
 202 effect on January 1, 2018. Beginning October 15, 2017, and
 203 annually thereafter, the department shall publish the maximum

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204 value, as adjusted, in a brochure accessible from its website
 205 relating to sales and use tax on amusement machines. If the
 206 release of the August Consumer Price Index for All Urban
 207 Consumers occurs after September 15, in any given year, the
 208 department shall publish the adjusted maximum value within 30
 209 calendar days after the release date.
 210 (9) Notwithstanding any other provision of law, an action
 211 to enjoin the operation of any game or machine pursuant to or
 212 for an alleged violation of this section or chapter 849 may be
 213 brought only by:
 214 (a) The Attorney General, the state attorney for the
 215 circuit in which the game or machine is located, any federally
 216 recognized tribal government possessing sovereign powers and
 217 rights of self-governance which is a party to a compact with the
 218 state, or in the case of an alleged violation of statutes that
 219 it is charged with enforcing, the Department of Agriculture and
 220 Consumer Services or the Department of Business and Professional
 221 Regulation; or
 222 (b) Any substantially affected person who is a resident of
 223 the county where the place of business operating the game or
 224 machine is located, or any substantially affected person who has
 225 a business or residence within 5 miles of the place of business
 226 operating the game or machine.
 227 (10) In addition to other civil, administrative, and
 228 criminal sanctions, any person who violates this section shall,
 229 upon conviction, be guilty of a misdemeanor of the second
 230 degree, punishable as provided in s. 775.082 or s. 775.083. Any
 231 person convicted of violating this section a second time shall,
 232 upon conviction, be guilty of a misdemeanor of the first degree,

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233 punishable as provided in s. 775.082 or s. 775.083. Any person
 234 who violates any provision of this section after having been
 235 twice convicted shall be deemed a common offender and shall be
 236 guilty of a felony of the third degree, punishable as provided
 237 in s. 775.082, s. 775.083, or s. 775.084.

238 Section 2. Subsection (8) of section 551.102, Florida
 239 Statutes, is amended to read:

240 551.102 Definitions.—As used in this chapter, the term:

241 (8) "Slot machine" means any mechanical or electrical
 242 contrivance, terminal that may or may not be capable of
 243 downloading slot games from a central server system, machine, or
 244 other device that, upon insertion of a coin, bill, ticket,
 245 token, or similar object or upon payment of any consideration
 246 whatsoever, including the use of any electronic payment system
 247 except a credit card or debit card, is available to play or
 248 operate, the play or operation of which, whether by reason of
 249 skill or application of the element of chance or both, may
 250 deliver or entitle the person or persons playing or operating
 251 the contrivance, terminal, machine, or other device to receive
 252 cash, billets, tickets, tokens, or electronic credits to be
 253 exchanged for cash or to receive merchandise or anything of
 254 value whatsoever, whether the payoff is made automatically from
 255 the machine or manually. The term includes associated equipment
 256 necessary to conduct the operation of the contrivance, terminal,
 257 machine, or other device. Slot machines may use spinning reels,
 258 video displays, or both. A slot machine is not a "coin-operated
 259 amusement machine" as defined in s. 212.02(24) or an amusement
 260 game or machine as described in s. 546.10 ~~s. 849.161~~, and slot
 261 machines are not subject to the tax imposed by s. 212.05(1)(h).

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262 Section 3. Section 849.161, Florida Statutes, is repealed.

263 Section 4. This act shall take effect July 1, 2015.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic
Security
Regulated Industries

SENATOR KELLI STARGEL
15th District

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

March 19, 2015

The Honorable Dorothy Hukill
Senate Finance and Tax Committee, Chair
305 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Hukill:

I am respectfully requesting that SB 268, related to *Amusement Games or Machines*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 15

Cc: Jose Diez-Arguelles/ Staff Director
Lynn Wells/ AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15 Meeting Date

SB 268 Bill Number (if applicable)

Topic AMUSEMENT GAMES

Amendment Barcode (if applicable)

Name BILL LUFKER

Job Title PRESIDENT

Address 1114 GROSSER ST.

Phone 850 222-2885

Street

LUFKER@

TALLAHASSEE

FL

32303

Email FLORIDAATTRACTI@LUFKER.COM

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing FLORIDA ATTRACTIONS ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15 Meeting Date

268 Bill Number (if applicable)

Topic ARCADE AMUSEMENT CENTERS

Amendment Barcode (if applicable)

Name Michael H. Wolf

Job Title ATTORNEY FOR FLORIDA ARCADE & BINGO ASSOC

Address 200 SE 6th ST STE 603

Phone 954 673 1146

Street

FT. LAUD

FLA

33301

Email MIKEWOLFLAW@yahoo.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Florida Arcade & Bingo Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/30/15

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

268

Bill Number (if applicable)

Topic Amusement Games

Amendment Barcode (if applicable)

Name Bill Helmich

Job Title

Address 303 Johns Dr

Phone 850 2513126

Street

Tallahassee FL 32301

City

State

Zip

Email

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing VFW and American Legion

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

March 30, 2015

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

CS/SB 268

Bill Number (if applicable)

Topic Amusement Games or Machines

Amendment Barcode (if applicable)

Name Larry Sellers

Job Title Partner

Address 315 S Calhoun Street, Suite 600

Phone 850 224 7000

Street

Tallahassee FL 3312

City

State

Zip

Email larry.sellers@hklaw.com

Speaking: [] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing Dave & Buster's

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3-30-15

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

268

Meeting Date

Bill Number (if applicable)

Topic Arcade Games

Amendment Barcode (if applicable)

Name Melanie Becker

Job Title Director Government Affairs

Address 1000 Universal Studios Plaza

Phone 409-310-2561

Street

Orlando

FL

32819

City

State

Zip

Email melanie.becker@universalorlando.com

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing Universal Orlando

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/30/15

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB268

Meeting Date

Bill Number (if applicable)

Topic Amusement Games

Amendment Barcode (if applicable)

Name Jennifer Green

Job Title

Address 113 E College Ave.

Phone 841-1726

Street

Tallahassee

FL

32301

City

State

Zip

Email

Speaking: [] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing Florida Attractions Association

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

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S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-30-15

Meeting Date

268

Bill Number (if applicable)

Topic AMUSEMENT GAMES OR MACHINES

Amendment Barcode (if applicable)

Name RICHARD TURNER

Job Title GEN COUNSEL : U.P. GOVERNMENT RELATIONS

Address 230 S ADAMS ST
Street

Phone 850.224.2250

Tallahassee FL 32301
City State Zip

Email rturner@flc.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA RESTAURANT & LODGING ASSN

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 404

INTRODUCER: Senator Simpson

SUBJECT: Improvements to Real Property Damaged by Sinkhole Activity

DATE: March 27, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	Favorable
3.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
4.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 404 authorizes local governments to enter into financing agreements with property owners to finance qualified improvements to property damaged by sinkhole activity. Additionally, the bill expands the definition of “blighted area,” enabling community redevelopment areas to enter into voluntary contracts to redevelop properties damaged by sinkhole activity.

The bill is effective on July 1, 2015.

II. Present Situation:

The Property Assessed Clean Energy Model

The Property Assessed Clean Energy (PACE) Program enables local governments to encourage property owners to reduce energy consumption and increase energy efficiency. The PACE model allows individual residential, commercial, or industrial property owners to contract directly with qualified contractors for energy efficiency and renewable energy projects. The local government provides the upfront funding for the project through proceeds from issuing a revenue bond, which are repaid by assessments on participating property owners’ tax bills.¹

Voluntary Energy and Wind Resistant Real Property Improvements

The 2010 Legislature passed an expanded form of the PACE model.² Section 163.08, F.S., provides supplemental authority to local governments regarding qualified improvements to real property. The law provides that if a local government passes an ordinance or adopts a resolution to create a program to provide up-front financing for energy conservation and efficiency,

¹ For more information, See <http://www.pacenow.org> and <http://floridapace.gov/> (last visited Mar. 24, 2015).

² Chapter 2010-139, Laws of Fla.

renewable energy, or wind resistance improvements, a property owner within the jurisdiction of that local government may apply to the local government for funding to finance a qualifying improvement and voluntarily enter into a financing agreement with the local government.³ “Qualifying improvements” include energy conservation and efficiency improvements; renewable energy improvements; and wind resistance improvements.⁴

At least 30 days before entering into the financing agreement, the property owner must provide notice to the mortgage holder or loan servicer of the intent to enter into the agreement, the maximum amount to be financed, and the maximum annual assessment that will be required to repay the amount.⁵ The law provides that an acceleration clause for “payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing agreement as provided for in this section is not enforceable.”⁶ However, the mortgage holder or loan servicer may increase the required monthly escrow by an amount necessary to annually pay the qualifying improvement assessment.

The law authorizes a local government to partner with one or more local governments for the purpose of providing and financing qualifying improvements, levy a non-ad valorem assessment to fund a qualifying improvement, incur debt to provide financing for qualifying improvements, and collect costs incurred from financing qualifying improvements through a non-ad valorem assessment. These non-ad valorem assessments are senior to existing mortgage debt, so if the homeowner defaults or goes into foreclosure, the delinquent payments would be recovered before the mortgage. In 2012, the Legislature clarified that a partnership of local governments may enter into a financing agreement and that the separate legal entity may impose the voluntary special assessments for purposes of the program.⁷

Specific qualifying improvements are determined by the twelve Florida counties where programs exist.⁸ To participate in a program, property owners must have paid property taxes and not been delinquent for the previous three years.⁹ The total assessment cannot be for an amount greater than 20 percent of the just value of the property as determined by the county property appraiser, unless consent is obtained from the mortgage holders.¹⁰ In 2010, the Federal Housing Finance Agency (FHFA), directed mortgage underwriters Fannie Mae and Freddie Mac to not purchase mortgages of homes with a PACE lien due to its senior status above a mortgage.¹¹ Although

³ Section 163.08(4), F.S.

⁴ Section 163.08(2)(b), F.S.

⁵ Section 163.08(13), F.S.

⁶ *Id.*, Section 163.08(15), F.S.

⁷ Chapter 2012-117, Laws of Fla.

⁸ Database of State Incentives for Renewables & Efficiency, *Florida PACE Financing*, available at <http://programs.dsireusa.org/system/program/detail/3869> (last visited Mar. 24, 2015).

⁹ Section 163.08(9), F.S.

¹⁰ Section 163.08(12)(a), F.S.

¹¹ Federal Housing Finance Agency, *FHFA Statement on Certain Energy Retrofit Loan Programs* (July, 6, 2010), available at <http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-Certain-Energy-Retrofit-Loan-Programs.aspx> (last visited Mar. 24, 2015). *See also* Federal Housing Financial Agency, *Statement of the Federal Housing Finance Agency on Certain Super Priority Liens* (December 22, 2014)(“FHFA wants to make clear to homeowners, lenders, other financial institutions, state officials, and the public that Fannie Mae and Freddie Mac’s policies prohibit the purchase of a mortgage where the property has a first-lien PACE loan attached to it”) available at <http://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-of-the-Federal-Housing-Finance-Agency-on-Certain-Super-Priority-Liens.aspx> (last visited March 24, 2015).

residential PACE activity subsided following this directive, some residential PACE programs are now operating with loan loss reserve funds, appropriate disclosures, or other protections meant to address FHFA's concerns.¹²

Community Redevelopment Act

The Community Redevelopment Act of 1969,¹³ authorizes a county or municipality to create community redevelopment areas (CRAs) as a means of redeveloping slums and blighted areas. In accordance with a community redevelopment plan,¹⁴ CRAs can:

- Enter into contracts,
- Disseminate information,
- Acquire property within a slum or blighted area by voluntary methods,
- Demolish and remove buildings and improvements,
- Construct improvements, and
- Dispose of property at fair value.¹⁵

CRAs are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF).¹⁶ Taxing authorities must annually appropriate an amount representing the calculated increment revenue to the redevelopment trust fund. This revenue is used to repay bonds issued to finance redevelopment projects. School district revenues are not subject to the tax increment mechanism.

Counties and municipalities are prohibited from exercising the community redevelopment authority provided by the Community Redevelopment Act until they adopt an ordinance that declares an area to be a slum or a blighted area.¹⁷

Section 163.340(8), F.S., defines “blighted area” as follows:

An area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:

- (a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- (b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the five years prior to the finding of such conditions;
- (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (d) Unsanitary or unsafe conditions;

¹² Commercial PACE programs were not directly affected by FHFA’s actions because Fannie Mae and Freddie Mac do not underwrite commercial mortgages. Database of State Incentives for Renewables & Efficiency, *supra* note 6.

¹³ Chapter 163, F.S., part III.

¹⁴ Section 163.360, F.S.

¹⁵ Section 163.370, F.S.

¹⁶ Through tax increment financing, a baseline tax amount is determined and any taxes generated in future years above that baseline amount are transferred into the trust fund. *See* Section 163.387(1)(a), F.S.

¹⁷ Sections 163.355(1) and 163.360(1), F.S.

- (e) Deterioration of site or other improvements;
- (f) Inadequate and outdated building density patterns;
- (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- (h) Tax or special assessment delinquency exceeding the fair value of the land;
- (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
- (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
- (l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
- (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
- (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

However, the term “blighted area” also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a), F.S., agree, either by inter-local agreement or agreements with the agency or by resolution, that the area is blighted.

Sinkholes

A sinkhole has been defined as “a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole forms by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved.”¹⁸ Sinkholes are a common feature in Florida’s landscape, due to erosional processes associated with the chemical weathering and dissolution of carbonate rocks.¹⁹ Over geologic periods of time, persistent erosion created extensive underground voids and drainage systems throughout Florida.²⁰ A sinkhole forms when sediments overlying such a void collapse. Because “groundwater that feeds springs is recharged ... through direct conduits such as sinkholes,” the Florida Legislature has expressed a desire to promote good stewardship, effective planning strategies, and best management practices with respect to sinkholes and the springs they recharge, which may be “threatened by actual and potential flow reductions and declining water quality.”²¹

The two most commonly recommended stabilization techniques for sinkholes are grouting and underpinning.²² Under the grouting procedure, a grout mixture (either cement-based or a

¹⁸ Section 627.706(2)(h), F.S.

¹⁹ Such as limestone and dolomite. See, Florida Dep’t of Environmental Protection, *Sinkholes*, available at <http://www.dep.state.fl.us/geology/geologictopics/sinkhole.htm> (last visited Feb. 6, 2015).

²⁰ *Id.*

²¹ Section 369.315, F.S.

²² Citizens Property Insurance Corporation, *Sinkhole Repairs: Underpinning and Grouting*, (Oct. 30, 2012) available at <https://www.citizensfla.com/shared/sinkhole/documents/GroutVersusUnderpinning.pdf> (last visited on Mar. 24, 2015).

chemical resin that expands into foam) is injected into the ground to stabilize the subsurface soils to minimize further subsidence damage by increasing the density of the soils beneath the building as well as sealing the top of the limestone surface to minimize future raveling.²³ Underpinning consists of steel piers drilled or pushed into the ground to stabilize the building's foundation.²⁴ One end of the steel pipe connects to the foundation of the structure with the other end resting on solid limestone. Underpinning repairs, when performed, are usually combined with grouting.

III. Effect of Proposed Changes:

Section 1 amends s. 163.08, F.S., to allow supplemental authority for financing sinkhole-related improvements to real property. The bill establishes a finding of a compelling state interest in providing local government assistance that enables property owners to finance qualified improvements to property damaged by sinkhole activity. The bill expands the definition of "qualifying improvement" to include stabilization or other repairs to property damaged by sinkhole activity. The bill provides that a sinkhole-related qualifying improvement is deemed affixed to a building or facility; and provides that a disclosure statement to that effect be given to a prospective purchaser of the property.

Section 2 amends s 163.340, F.S., to add certain sinkhole activity to the list of factors that define a "blighted area." Specifically, the definition is expanded to account for land that has a "substantial number or percentage of properties" that have been damaged by sinkhole activity and have not been adequately repaired or stabilized. Thus, the bill would enable a CRA focused on redeveloping land with properties damaged by sinkholes to establish a community redevelopment trust fund that is funded through tax increment financing.

Section 3 amends s. 163.524, F.S., to conform a cross-reference.

Section 4 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²³ See *id.*

²⁴ See *id.*

D. Other Constitutional Issues:

Section 163.08, F.S., amended by section 1 of this bill, is the subject of litigation in the Florida Supreme Court. In *Florida Bankers Association v. State*, Case No. SC14-1603, the Court is considering whether the statute impairs contractual obligations in violation of art. 1, s. 10, Fla. Const. In *Reynolds v. State*, Case No. SC14-1618, the Court is considering whether a financing agreement created pursuant to s. 163.08, F.S., impairs contractual obligations. The Court has scheduled oral argument in both cases for May 7, 2015.

Section 163.08(8), F.S., provides that an assessment levied to fund a qualifying improvement is senior to existing mortgage debt, so if the homeowner defaults or goes into foreclosure, the delinquent payments would be recovered before the mortgage. An issue in the pending court cases is whether the provision making the assessment senior to existing mortgages impairs the mortgage contracts in violation of Article I, Section 10 of the Florida Constitution.

Section 1 of this bill contains a finding of a compelling government interest in providing local government assistance to enable property owners to effect improvements on property damaged by sinkhole activity. In *Pomponio v. Claridge of Pompano Condo. Inc.*, 378 So.2d 774, 780 (Fla. 1979), the court explained that whether a statute impermissibly impairs contractual obligations is a “balancing process to determine whether the nature and extent of the impairment is constitutionally tolerable in light of the importance of the state’s objective, or whether it unreasonably intrudes into the parties’ bargain to a degree greater than is necessary to achieve that objective.”

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Owners of property damaged by sinkhole activity will be able to enter into financing agreements with a local government that passes an ordinance or adopts a resolution to participate in the program established in s. 163.08, F.S.

Community redevelopment agencies will be able to develop a community redevelopment plan utilizing the expanded definition of “blighted area” to include land that has been “damaged by sinkhole activity which have not been adequately repaired or stabilized.” As a result, these areas may receive TIF revenues under the Community Redevelopment Act, and property values in the area may increase as a result of any improvements using TIF.

C. Government Sector Impact:

A municipality or county would be able to develop a community redevelopment plan utilizing the expanded definition of “blighted area” to include land that has a “substantial number or percentage of properties damaged by sinkhole activity which have not been adequately repaired or stabilized.” This could result in a portion of the ad valorem taxes from those lands being used for TIF.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.08, 163.340, and 163.524.

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

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

None.

B. Amendments:

None.

By Senator Simpson

18-00303-15

2015404__

A bill to be entitled

An act relating to improvements to real property damaged by sinkhole activity; amending s. 163.08, F.S.; declaring that there is a compelling state interest in enabling property owners to voluntarily finance certain improvements to property damaged by sinkhole activity with local government assistance; expanding the definition of the term "qualifying improvement" to include stabilization or other repairs to property damaged by sinkhole activity; providing that stabilization or other repairs to property damaged by sinkhole activity are qualifying improvements considered affixed to a building or facility; revising the form of a specified written disclosure statement to include an assessment for a qualifying improvement relating to stabilization or repair of property damaged by sinkhole activity; amending s. 163.340, F.S.; expanding the definition of "blighted area" to include a substantial number or percentage of properties damaged by sinkhole activity which are not adequately repaired or stabilized; conforming a cross-reference; amending s. 163.524, F.S.; conforming a cross-reference; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present paragraph (c) of subsection (1) of section 163.08, Florida Statutes, is redesignated as paragraph

Page 1 of 7

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

18-00303-15

2015404__

(d), a new paragraph (c) is added to that subsection, and paragraph (b) of subsection (2) and subsections (10) and (14) of that section are amended, to read:

163.08 Supplemental authority for improvements to real property.—

(1)

(c) The Legislature finds that properties damaged by sinkhole activity which are not adequately repaired may negatively affect the market valuation of surrounding properties, resulting in the loss of property tax revenues to local communities. The Legislature finds that there is a compelling state interest in providing local government assistance to enable property owners to voluntarily finance qualified improvements to property damaged by sinkhole activity.

(2) As used in this section, the term:

(b) "Qualifying improvement" includes any:

1. Energy conservation and efficiency improvement, which is a measure to reduce consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; building modifications to increase the use of daylight; replacement of windows; installation of energy controls or energy recovery systems; installation of electric vehicle charging equipment; and installation of efficient lighting equipment.

2. Renewable energy improvement, which is the installation of any system in which the electrical, mechanical, or thermal energy is produced from a method that uses one or more of the

Page 2 of 7

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

18-00303-15 2015404__

59 following fuels or energy sources: hydrogen, solar energy,
 60 geothermal energy, bioenergy, and wind energy.

61 3. Wind resistance improvement, which includes, but is not
 62 limited to:

63 a. Improving the strength of the roof deck attachment;
 64 b. Creating a secondary water barrier to prevent water
 65 intrusion;

66 c. Installing wind-resistant shingles;
 67 d. Installing gable-end bracing;
 68 e. Reinforcing roof-to-wall connections;
 69 f. Installing storm shutters; or
 70 g. Installing opening protections.

71 4. Stabilization or other repairs to property damaged by
 72 sinkhole activity.

73 (10) A qualifying improvement shall be affixed to a
 74 building or facility that is part of the property and shall
 75 constitute an improvement to the building or facility or a
 76 fixture attached to the building or facility. For the purposes
 77 of stabilization or other repairs to property damaged by
 78 sinkhole activity, a qualifying improvement is deemed affixed to
 79 a building or facility. An agreement between a local government
 80 and a qualifying property owner may not cover wind-resistance
 81 improvements in buildings or facilities under new construction
 82 or construction for which a certificate of occupancy or similar
 83 evidence of substantial completion of new construction or
 84 improvement has not been issued.

85 (14) At or before the time a purchaser executes a contract
 86 for the sale and purchase of any property for which a non-ad
 87 valorem assessment has been levied under this section and has an

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88 unpaid balance due, the seller shall give the prospective
 89 purchaser a written disclosure statement in the following form,
 90 which shall be set forth in the contract or in a separate
 91 writing:

92

93 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
 94 RENEWABLE ENERGY, ~~OR~~ WIND RESISTANCE, OR SINKHOLE
 95 STABILIZATION OR REPAIR.—The property being purchased
 96 is located within the jurisdiction of a local
 97 government that has placed an assessment on the
 98 property pursuant to s. 163.08, Florida Statutes. The
 99 assessment is for a qualifying improvement to the
 100 property relating to energy efficiency, renewable
 101 energy, ~~or~~ wind resistance, or stabilization or repair
 102 of property damaged by sinkhole activity, and is not
 103 based on the value of property. You are encouraged to
 104 contact the county property appraiser's office to
 105 learn more about this and other assessments that may
 106 be provided by law.

107 Section 2. Subsection (8) of section 163.340, Florida
 108 Statutes, is amended to read:

109 163.340 Definitions.—The following terms, wherever used or
 110 referred to in this part, have the following meanings:

111 (8) "Blighted area" means an area in which there are a
 112 substantial number of deteriorated, or deteriorating
 113 structures;7 in which conditions, as indicated by government-
 114 maintained statistics or other studies, endanger life or
 115 property or are leading to economic distress; ~~or endanger life~~
 116 ~~or property,~~ and in which two or more of the following factors

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117 are present:

118 (a) Predominance of defective or inadequate street layout,
119 parking facilities, roadways, bridges, or public transportation
120 facilities.~~+~~

121 (b) Aggregate assessed values of real property in the area
122 for ad valorem tax purposes have failed to show any appreciable
123 increase over the 5 years prior to the finding of such
124 conditions.~~+~~

125 (c) Faulty lot layout in relation to size, adequacy,
126 accessibility, or usefulness.~~+~~

127 (d) Unsanitary or unsafe conditions.~~+~~

128 (e) Deterioration of site or other improvements.~~+~~

129 (f) Inadequate and outdated building density patterns.~~+~~

130 (g) Falling lease rates per square foot of office,
131 commercial, or industrial space compared to the remainder of the
132 county or municipality.~~+~~

133 (h) Tax or special assessment delinquency exceeding the
134 fair value of the land.~~+~~

135 (i) Residential and commercial vacancy rates higher in the
136 area than in the remainder of the county or municipality.~~+~~

137 (j) Incidence of crime in the area higher than in the
138 remainder of the county or municipality.~~+~~

139 (k) Fire and emergency medical service calls to the area
140 proportionately higher than in the remainder of the county or
141 municipality.~~+~~

142 (l) A greater number of violations of the Florida Building
143 Code in the area than the number of violations recorded in the
144 remainder of the county or municipality.~~+~~

145 (m) Diversity of ownership or defective or unusual

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146 conditions of title which prevent the free alienability of land
147 within the deteriorated or hazardous area.~~+~~~~or~~

148 (n) Governmentally owned property with adverse
149 environmental conditions caused by a public or private entity.

150 (o) A substantial number or percentage of properties
151 damaged by sinkhole activity which have not been adequately
152 repaired or stabilized.

153

154 However, the term "blighted area" also means any area in which
155 at least one of the factors identified in paragraphs (a) through
156 (o) is ~~(n)~~ are present and all taxing authorities subject to s.
157 163.387(2)(a) agree, either by interlocal agreement ~~or~~
158 ~~agreements~~ with the agency or by resolution, that the area is
159 blighted. Such agreement or resolution must be limited to a
160 determination shall only determine that the area is blighted.
161 For purposes of qualifying for the tax credits authorized in
162 chapter 220, "blighted area" means an area as defined in this
163 subsection.

164 Section 3. Subsection (3) of section 163.524, Florida
165 Statutes, is amended to read:

166 163.524 Neighborhood Preservation and Enhancement Program;
167 participation; creation of Neighborhood Preservation and
168 Enhancement Districts; creation of Neighborhood Councils and
169 Neighborhood Enhancement Plans.-

170 (3) After the boundaries and size of the Neighborhood
171 Preservation and Enhancement District have been defined, the
172 local government shall pass an ordinance authorizing the
173 creation of the Neighborhood Preservation and Enhancement
174 District. The ordinance shall contain a finding that the

18-00303-15

2015404__

175 boundaries of the Neighborhood Preservation and Enhancement
176 District comply with ~~meet the provisions of~~ s. 163.340(7) or s.
177 ~~(8)(a)-(o)~~ ~~(8)(a)-(n)~~ or do not contain properties that are
178 protected by deed restrictions. Such ordinance may be amended or
179 repealed in the same manner as other local ordinances.

180 Section 4. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Chair*
Environmental Preservation and Conservation,
Vice Chair
Appropriations Subcommittee on General Government
Finance and Tax
Judiciary
Transportation

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON
18th District

March 17, 2015

Honorable Dorothy Hukill
Committee on Finance and Tax
207 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairwoman Hukill,

Please place Senate Bill 404 relating to sinkhole activity, on the next Finance and Tax Committee agenda.

Please contact my office with any questions. Thank you.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson
Senator, 18th District

CC: Jose Diez- Arguelles, Staff Director

REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: www.flisenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-30-15
Meeting Date

SB 404
Bill Number (if applicable)

Topic Sen Damage from Jack hole Activity

Amendment Barcode (if applicable)

Name Amy Dietz

Job Title Retired State Environmental Planner

Address 1130 Crestview Ave.

Phone 850 322-1599

Tallahassee FL 32303
City State Zip

Email amalie.dietz@fla.gov

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Environmental Caucus of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15
Meeting Date

404
Bill Number (if applicable)

Topic Bill

Amendment Barcode (if applicable)

Name Anthony DiMarco

Job Title Env of Govt. Affairs

Address 1001 Thomasville Rd

Phone 222-2265

Tallahassee FL 32303
City State Zip

Email adimarco@floridabankers.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Bankers Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3 / 30 / 2015

Meeting Date

Topic _____

Bill Number 404
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15

Meeting Date

SB 404

Bill Number (if applicable)

Topic Improvements to Real Property Damage

Amendment Barcode (if applicable)

By sinkhole activity
Name PAUL HANDECHAN

Job Title Consultant

Address 120 South Monroe Street

Phone 561 704 0428

Street

Tallahassee FL 32301

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association for Insurance Reform

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 544

INTRODUCER: Senator Hukill and others

SUBJECT: Exemption from the Sales and Use Tax for Certain Machinery and Equipment

DATE: March 27, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Askey</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 544 removes the April 30, 2017, expiration date for the exemption from sales and use tax for certain industrial machinery and equipment.

In addition, the bill retains the repeal date of April 30, 2017, for the sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck.

The current exemption for industrial machinery and equipment continues through April 2017. Thus, the bill does not have a cash impact in Fiscal Years 2015-2016 or 2016-2017. The Revenue Estimating Conference has determined that the bill will reduce General Revenue receipts by \$122.4 million in Fiscal Year 2017-2018, with a \$122.4 million recurring impact. The bill will reduce local government revenue by \$27.4 million in Fiscal Year 2017-2018, with a \$27.4 million recurring impact.¹

The bill takes effect July 1, 2015.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a six percent state sales and use tax which applies to the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rental of commercial real estate, and a limited number of services. Chapter 212, F.S., contains statutory provisions that authorize the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There

¹ Florida Revenue Estimating Conference, *HB 613/SB 544, 2*, (Feb. 13, 2015) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/pdf/page88-96.pdf> (last visited Mar. 18, 2015).

are currently more than 200 different exemptions, exclusions, deductions, and credits from sales and use tax.²

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed by ch. 212, F.S. The discretionary sales surtax is based on the tax rate imposed in the county where the taxable goods or services are sold, or delivered into.

Industrial Manufacturing and Equipment Sales Tax Exemption

Since April 30, 2014, the state has provided an exemption from the sales and use tax for industrial machinery and equipment purchased by an eligible manufacturing business.³ The machinery or equipment must be used at a fixed location in the state and eligible businesses include only those classified in the North American Industry Classification System (NAICS) under codes 31, 32, or 33. Manufacturing establishments classified under these codes include food, apparel, wood, paper, printing, chemical, pharmaceutical, plastic, rubber, metal, transportation, and furniture manufacturing.⁴ For the purposes of the exemption, “industrial machinery and equipment” means tangible personal property that has a depreciable life of three or more years and is used in the manufacturing, processing, compounding, or production of tangible personal property for sale.

The term, “industrial machinery and equipment,” also includes parts and accessories that are purchased prior to the industrial machinery and equipment begin placed in service.

The state also provides an exemption for a mixer drum affixed to a mixer truck used at locations in the state to mix, agitate, and transport freshly mixed concrete in a plastic state, for the manufacturing, processing, compounding, or production of tangible personal property for sale. Parts and labor required to affix a mixer drum to a mixer truck are also exempt.

These exemptions are repealed April 30, 2017.

Manufacturing Industry in Florida

According to Enterprise Florida, Inc., (EFI) there are more than 18,200 manufacturing companies and more than 317,000 manufacturing employees in Florida. These companies produce a variety of manufactured goods including aerospace products, batteries, food and beverages, communications equipment, pharmaceuticals, semiconductors, and boats.⁵

² Florida Revenue Estimating Conference, *Florida Tax Handbook*, (2015), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/index.cfm> (last visited Mar. 18, 2015).

³ Section 212.08(7)(kkk), F.S.

⁴ The Manufacturers Association of Florida has provided a complete list of the manufacturing sectors that are classified under the relevant NAICS codes, available at https://c.ymcdn.com/sites/maf.site-ym.com/resource/resmgr/Docs/NAICS_Codes.pdf (last visited Mar. 18, 2015).

⁵ Enterprise Florida, Inc., *Florida The Perfect Climate for Business: Manufacturing*, (June 2014) available at <http://www.enterpriseflorida.com/wp-content/uploads/brief-manufacturing-florida.pdf> (last visited Mar 18, 2015).

III. Effect of Proposed Changes:

The bill removes the repeal date for the exemption from sales and use tax for certain industrial machinery and equipment purchased by an eligible business.

The bill retains the repeal date of April 30, 2017, for the sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of section 18, Art VII of the Florida Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact.

The bill provides a sales tax exemption that may reduce counties' local option sales tax collections, thereby reducing their revenue-raising authority. If the fiscal impact of this provision is found to be significant, the bill may require a two-thirds vote of the membership.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The current exemption for industrial machinery and equipment continues through April 2017. Thus, the bill does not have a cash impact in Fiscal Years 2015-2016 or 2016-2017. The Revenue Estimating Conference has determined that the bill will reduce General Revenue receipts by \$122.4 million in Fiscal Year 2017-2018, with a \$122.4 million recurring impact. The bill will reduce local government revenue by \$27.4 million in Fiscal Year 2017-2018, with a \$27.4 million recurring impact.⁶

⁶ Florida Revenue Estimating Conference, *HB 613/SB 544, 2*, (Feb. 13, 2015) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/pdf/page88-96.pdf> (last visited Mar. 18, 2015).

B. Private Sector Impact:

Manufacturing companies will see a reduction in the cost of producing machinery and equipment.

C. Government Sector Impact:

The Department of Revenue reported that the bill will have an insignificant expenditure impact on the department.⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.08 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁷ Florida Department of Revenue, *Senate Bill 544 Fiscal Analysis* (Feb. 12, 2015) available at <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=5293> (last visited Mar. 18, 2015).

By Senator Hukill

8-00774A-15

2015544__

A bill to be entitled

An act relating to the exemption from the sales and use tax for certain machinery and equipment; amending s. 212.08, F.S.; providing that the exemption for certain mixer drums and the parts and labor required to affix such mixer drums is repealed on a specified date; deleting the expiration date for the exemption for certain industrial machinery and equipment; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (kkk) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-00774A-15

2015544__

obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(kkk) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in within this state, ~~or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate, and transport freshly mixed concrete in a plastic state, for the manufacture, processing, compounding, or production of items of tangible personal property for sale~~ shall be exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph ~~paragraph~~, the seller is relieved of the responsibility for collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-00774A-15

2015544__

59 industrial machinery and equipment is located is within the
60 industries classified under NAICS codes 31, 32, and 33. As used
61 in this subparagraph, "NAICS" means those classifications
62 contained in the North American Industry Classification System,
63 as published in 2007 by the Office of Management and Budget,
64 Executive Office of the President.

65 b. "Primary business activity" means an activity
66 representing more than 50 ~~fifty~~ percent of the activities
67 conducted at the location where the industrial machinery and
68 equipment is located.

69 c. "Industrial machinery and equipment" means tangible
70 personal property or other property that has a depreciable life
71 of 3 years or more and that is used as an integral part in the
72 manufacturing, processing, compounding, or production of
73 tangible personal property for sale. A building and its
74 structural components are not industrial machinery and equipment
75 unless the building or structural component is so closely
76 related to the industrial machinery and equipment that it houses
77 or supports that the building or structural component can be
78 expected to be replaced when the machinery and equipment are
79 replaced. Heating and air conditioning systems are not
80 industrial machinery and equipment unless the sole justification
81 for their installation is to meet the requirements of the
82 production process, even though the system may provide
83 incidental comfort to employees or serve, to an insubstantial
84 degree, nonproduction activities. The term includes parts and
85 accessories for industrial machinery and equipment only to the
86 extent that the parts and accessories are purchased prior to the
87 date the machinery and equipment are placed in service.

Page 3 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-00774A-15

2015544__

88 3. A mixer drum affixed to a mixer truck which is used at
89 any location in this state to mix, agitate, and transport
90 freshly mixed concrete in a plastic state for the manufacture,
91 processing, compounding, or production of items of tangible
92 personal property for sale shall be exempt from the tax imposed
93 by this chapter. Parts and labor required to affix a mixer drum
94 exempt under this subparagraph to a mixer truck are also exempt.
95 If, at the time of purchase, the purchaser furnishes the seller
96 with a signed certificate certifying the purchaser's entitlement
97 to exemption pursuant to this subparagraph, the seller is
98 relieved of the responsibility for collecting the tax on the
99 sale of such items, and the department shall look solely to the
100 purchaser for recovery of the tax if it determines that the
101 purchaser was not entitled to the exemption. This subparagraph
102 paragraph is repealed April 30, 2017.

103 Section 2. This act shall take effect July 1, 2015.

Page 4 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15

SB 544

Meeting Date

Bill Number (if applicable)

Topic Exemption from Sales Tax-Machinery

Amendment Barcode (if applicable)

Name Brewster BevisJob Title Senior Vice PresidentAddress 516 N. Adams St.Phone 224-7173

Street

Tallahassee

FL

32301Email bbevis@aif.com

City

State

Zip

Speaking: For Against InformationWaive Speaking: In Support Against
(The Chair will read this information into the record.)Representing Associated Industries of FloridaAppearing at request of Chair: Yes NoLobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/2015

SB 544

Meeting Date

Bill Number (if applicable)

Topic Exemption from the Sales and Use Tax for Certain Machinery and Equipment

Amendment Barcode (if applicable)

Name Christian WeissJob Title Policy Coordinator of Finance and Tax, OPBAddress 400 South Monroe St., Suite 1702Phone 850-717-9392

Street

Tallahassee

FL

32303Email christian.weiss@myflorida.com

City

State

Zip

Speaking: For Against InformationWaive Speaking: In Support Against
(The Chair will read this information into the record.)Representing Executive Office of the GovernorAppearing at request of Chair: Yes NoLobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15
Meeting Date

544
Bill Number (if applicable)

Topic MANUFACTURING MACHINERY & EQUIPMENT

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title EXECUTIVE DIRECTOR

Address 1625 SUMMIT LAKE DR

Phone 850 402 2954

Street
JALAHASSEE FL 32317
City State Zip

Email nancy@mafmg.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing MANUFACTURERS ASSOCIATION OF FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

MARCH 30, 2015
Meeting Date

SB 544
Bill Number (if applicable)

Topic BBB

Amendment Barcode (if applicable)

Name LIZ CASTRO

Job Title _____

Address _____

Phone _____

Street

City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The Florida Beverage Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2-30-15

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

544

Bill Number (if applicable)

Meeting Date

Amendment Barcode (if applicable)

Topic Sales Tax Manufacturing MAE

Name Kurt Wenner

Job Title Vice President

Address 106 N. Bronough

Street

Tallahassee FL 32301

City

State

Zip

Phone 222-5052

Email kwenner@floridatxwatch.org

Speaking: [] For [] Against [] Information

Waive Speaking: [x] In Support [] Against (The Chair will read this information into the record.)

Representing Florida Tax Watch

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/30/15

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 544

Meeting Date

Bill Number (if applicable)

Topic SB 544

Amendment Barcode (if applicable)

Name John Ray

Job Title Executive Director

Address 312 W. College Ave, Suite 212

Street

Tallahassee FL 32301

City

State

Zip

Phone 850.445.5044

Email

Speaking: [x] For [] Against [] Information

Waive Speaking: [x] In Support [] Against (The Chair will read this information into the record.)

Representing Florida Medical Manufacturers

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/82
Meeting Date

SBS44
Bill Number (if applicable)

Topic EXEMPTION ON SALES TAX ON CERTAIN MACHINERY + EQUIPMENT

Amendment Barcode (if applicable)

Name BILL WILSON

Job Title DIRECTOR OF LEGISLATIVE AFFAIRS

Address CADWELL BUILDING, SUITE 200

Phone 850-245-7116

Street

TALLAHASSEE

FL

32399

City

State

Zip

Email BILL.WILSON@DEF.FLORIDA.GOV

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing DEF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/2015
Meeting Date

Topic _____

Bill Number 544
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15

Meeting Date

544

Bill Number (if applicable)

Topic Machinery & Equipment Exemption

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St

Phone 850-521-1235

Street

Tallahassee

FL

32301

Email cjohnson@flchamber.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

SB 544
Bill Number (if applicable)

Topic Tax Exemption For Marketing

Amendment Barcode (if applicable)

Name Jerry Sanson

Job Title

Address PO Box 98

Phone 321-699-4400

Street

COCOA

FL

32923

Email FISHAWK @ AOL.COM

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Northrup Grumman Corporation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30

Meeting Date

SB 544

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name JOSE GONZALEZ

Job Title REGION VP

Address PO BOX 836

Phone 294-4057

TALLAHASSEE, FL 32302

Email _____

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ANNUNCIER-BUSCH

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 668

INTRODUCER: Finance and Tax Committee; Community Affairs Committee; and Senator Latvala

SUBJECT: Emergency Fire Rescue Services and Facilities Surtax

DATE: March 31, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 668 amends the provisions of s. 212.055, F.S., which authorizes a county to adopt an Emergency Fire Rescue Services and Facilities Surtax of up to one percent. The bill removes the requirement that a county governing authority must execute an interlocal agreement with the majority of local governments that provide fire rescue services as a prerequisite for holding a referendum on the surtax levy. Upon approval of the referendum, the proceeds are distributed to all local government entities in the county providing such services.

The bill amends the formula to be used by the county to distribute the surtax revenue. The new formula is based on each entity's average annual expenditures for fire control and emergency fire rescue services in the five fiscal years preceding the fiscal year in which the surtax takes effect in proportion to the average annual total of the expenditures for such entities in the five fiscal years preceding the fiscal year in which the surtax takes effect. The county must revise the distribution proportions to reflect any changes in the service area of an entity receiving a distribution of the surtax proceeds.

Local government entities will still be required to reduce ad valorem taxes and non-ad valorem assessments for fire control and emergency rescue services by the estimated amount of surtax revenue.

The Revenue Estimating Conference estimates that the bill will have a zero or positive, indeterminate impact on local government revenue.

The bill takes effect July 1, 2015.

II. Present Situation:

Section 212.055, F.S., authorizes counties to impose various discretionary sales surtaxes.

In 2009, the Legislature authorized the “Emergency Fire Rescue Services and Facilities Surtax.”¹ A county not imposing two discretionary sales surtaxes of indefinite duration may adopt an ordinance to levy a sales surtax of up to one percent for emergency fire rescue services and facilities.² Upon completion of an interlocal agreement, the levy must be placed on the ballot and approved by a majority of the local electorate.

Since the passage of the statute, no county has levied the surtax.³

The surtax may be used to fund “emergency fire rescue services,” which includes:

- Fire prevention and extinguishing,
- Protection of life and property from natural or intentionally-created fires,
- Enforcing municipal, county, or state fire protection codes and laws, and
- Providing emergency medical treatment.⁴

The distribution of surtax proceeds is based on actual collections within each jurisdiction of that entity. If the county has special fire control districts, the proceeds are distributed based on the entities’ proportional spending on fire control and emergency rescue services from ad valorem and non-ad valorem assessments in the preceding five fiscal years.⁵

Additionally, s. 212.055(8), F.S., provides administrative guidelines and obligations for a county and the participating local government entities.⁶

When collections of the surtax begin, the county and participating local governments must reduce ad valorem taxes and non-ad valorem assessments used to pay for fire control and emergency rescue services by the estimated amount of revenue provided by the surtax. If surtax collections exceed projected collections in any fiscal year, any surplus distribution shall be used to further reduce ad valorem taxes in the next fiscal year. The statute requires such excess collections to be applied as a “rebate to the final millage.”⁷

¹ Chapter 2009-182, Laws of Fla.

² Section 212.055(8)(a), F.S. Miami-Dade, Madison, and parts of Orange and Osceola are excluded from participating in this discretionary sales surtax. See, *infra* note 5.

³ Office of Economic and Demographic Research, *2014 Local Government Financial Information Handbook*, at 193.

⁴ Section 212.055(8)(a), F.S.

⁵ *Id.* This provision does not apply, however, if the county and one or more participating local governments have an interlocal agreement prohibiting one or more other jurisdictions from providing pre-hospital medical treatment inside the prohibited jurisdiction’s boundaries, or if the county has issued a certificate of public convenience and necessity or its equivalent to a county department or dependent special district of the county. See s. 212.055(8)(h), F.S.

⁶ Section 212.055(8), F.S.

⁷ Section 212.055(8)(f), F.S.

The use of surtax proceeds does not relieve counties and participating local governments from the provisions of ch. 200, F.S., or any other provision of law establishing millage caps or limiting undesignated budget reserves.⁸

After the voters approve the levy, the surtax collections begin January 1 of the following year.

III. Effect of Proposed Changes:

Section 1 amends s. 212.055(8), F.S., to remove the requirement that the governing authority of the county execute an interlocal agreement with a majority of local government entities that provide fire rescue services before scheduling a referendum to approve the imposition of the surtax. Since an interlocal agreement would no longer be required for distribution of surtax revenues, the bill removes other references to such agreements.

If the surtax is approved, all local government entities providing fire control and emergency rescue services within the county will share in the surtax proceeds.

The bill amends the formula to be used by the county to distribute the surtax revenue. The new formula is based on each entity's average annual expenditures for fire control and emergency fire rescue services in the five fiscal years preceding the fiscal year in which the surtax takes effect in proportion to the average annual total of the expenditures for such entities in the five fiscal years preceding the fiscal year in which the surtax takes effect. The county must revise the distribution proportions to reflect any changes in the service area of an entity receiving a distribution of the surtax proceeds.

Local government entities will still be entitled to a share of the surtax proceeds when providing personnel and equipment on a long-term basis to another entity in the county.

Local government entities will still be required to reduce ad valorem taxes and non-ad valorem assessments for fire control and emergency rescue services by the estimated amount of surtax revenue and further reduce such taxes or assessments if the surtax produces greater than expected proceeds. These provisions apply to each local government entity (including the county) providing fire rescue services in the county.⁹

Section 2 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁸ *Id.*

⁹ The removal of the interlocal agreement requirement erases the distinction between participating and non-participating service providers.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that the bill will have a zero or positive, indeterminate impact on local government revenue.¹⁰

B. Private Sector Impact:

Individuals and businesses in counties implementing the surtax will face higher sales taxes, but will receive a reduction in ad valorem taxes and non-ad valorem assessments.

C. Government Sector Impact:

Counties implementing the surtax will incur the cost of holding a referendum and other implementation expenses, offset in part by an administrative fee not to exceed two percent of the surtax collected.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.055 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Finance and Tax on March 30, 2015:

The bill amends the formula used by the county to distribute the surtax revenue.

¹⁰ Revenue Estimating Conference, (Feb. 2, 2015) *Revenue Impact Results*, pp. 58-60, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/pdf/page58-61.pdf> (last visited Mar. 25, 2015).

CS by Community Affairs on March 4, 2015:

Reinstates a provision accidentally deleted that requires surtaxes collected in excess of projected collections to be applied as a rebate to the final millage after completion of the TRIM notice.

B. Amendments:

None.



297852

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2015	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Simpson) recommended the following:

Senate Amendment

Delete lines 52 - 57
and insert:
collected, shall be distributed by the county based on each
entity's average annual expenditures for fire control and
emergency fire rescue services in the 5 fiscal years preceding
the fiscal year in which the surtax takes effect in proportion
to the average annual total of the expenditures for such
entities in the 5 fiscal years preceding the fiscal year in



297852

11 which the surtax takes effect. The county shall revise the
12 distribution proportions to reflect a change in the service area
13 of an entity receiving a distribution of the surtax proceeds

By the Committee on Community Affairs; and Senator Latvala

578-01926-15

2015668c1

A bill to be entitled

An act relating to the emergency fire rescue services and facilities surtax; amending s. 212.055, F.S.; revising the distribution of surtax proceeds; deleting a provision requiring the county governing authority to develop and execute interlocal agreements with local government entities providing emergency fire and rescue services; requiring a local government entity requesting and receiving certain personnel or equipment from another service provider to pay for such personnel or equipment from its share of surtax proceeds; deleting a provision requiring local government entities to enter into an interlocal agreement in order to receive surtax proceeds; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (b) through (j) of subsection (8) of section 212.055, Florida Statutes, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

578-01926-15

2015668c1

required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

(b) Upon the adoption of the ordinance, the levy of the surtax must be placed on the ballot by the governing authority of the county enacting the ordinance. The ordinance will take effect if approved by a majority of the electors of the county voting in a referendum held for such purpose. The referendum shall be placed on the ballot of a regularly scheduled election. The ballot for the referendum must conform to the requirements of s. 101.161. ~~The interlocal agreement required under paragraph (d) is a condition precedent to holding the referendum.~~

(c) Pursuant to s. 212.054(4), the proceeds of the discretionary sales surtax collected under this subsection, less an administrative fee that may be retained by the Department of Revenue, shall be distributed by the department to the county. The county shall distribute the proceeds it receives from the department to each local government entity providing emergency fire rescue services in the county. The surtax proceeds, less an administrative fee not to exceed 2 percent of the surtax collected, shall be distributed by the county based on the proportion of each entity's average annual expenditures of ad valorem taxes and non-ad valorem assessments for fire control and emergency fire rescue services in the preceding 5 fiscal years to the average annual total of the expenditures for all entities receiving such proceeds in the preceding 5 fiscal years ~~the participating jurisdictions that have entered into an~~

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

578-01926-15

2015668c1

59 ~~interlocal agreement with the county under this subsection. The~~
 60 ~~county may also charge an administrative fee for receiving and~~
 61 ~~distributing the surtax in the amount of the actual costs~~
 62 ~~incurred, not to exceed 2 percent of the surtax collected.~~

63 ~~(d) If a local government entity requests The county~~
 64 ~~governing authority must develop and execute an interlocal~~
 65 ~~agreement with participating jurisdictions, which are the~~
 66 ~~governing bodies of municipalities, dependent special districts,~~
 67 ~~independent special districts, or municipal service taxing units~~
 68 ~~that provide emergency fire and rescue services within the~~
 69 ~~county. The interlocal agreement must include a majority of the~~
 70 ~~service providers in the county.~~

71 ~~1. The interlocal agreement shall only specify that:~~

72 ~~a. The amount of the surtax proceeds to be distributed by~~
 73 ~~the county to each participating jurisdiction is based on the~~
 74 ~~actual amounts collected within each participating jurisdiction~~
 75 ~~as determined by the Department of Revenue's population~~
 76 ~~allocations in accordance with s. 218.62; or~~

77 ~~b. If a county has special fire control districts and~~
 78 ~~rescue districts within its boundary, the county shall~~
 79 ~~distribute the surtax proceeds among the county and the~~
 80 ~~participating municipalities or special fire control and rescue~~
 81 ~~districts based on the proportion of each entity's expenditures~~
 82 ~~of ad valorem taxes and non-ad valorem assessments for fire~~
 83 ~~control and emergency rescue services in each of the immediately~~
 84 ~~preceding 5 fiscal years to the total of the expenditures for~~
 85 ~~all participating entities.~~

86 ~~2. Each participating jurisdiction shall agree that if a~~
 87 ~~participating jurisdiction is requested to provide personnel or~~

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2015668c1

88 ~~equipment from ~~to~~ any other service provider, on a long-term~~
 89 ~~basis and the personnel or equipment is provided pursuant to an~~
 90 ~~interlocal agreement, the local government entity jurisdiction~~
 91 ~~providing the service is entitled to payment from the requesting~~
 92 ~~service provider from that provider's share of the surtax~~
 93 ~~proceeds for all costs of the equipment or personnel.~~

94 ~~(e) Upon the surtax taking effect and initiation of~~
 95 ~~collections, each local government entity receiving a share of~~
 96 ~~surtax proceeds a county and any participating jurisdiction~~
 97 ~~entering into the interlocal agreement shall reduce the ad~~
 98 ~~valorem tax levy or any non-ad valorem assessment for fire~~
 99 ~~control and emergency rescue services in its next and subsequent~~
 100 ~~budgets by the estimated amount of revenue provided by the~~
 101 ~~surtax.~~

102 ~~(f) Use of surtax proceeds authorized under this subsection~~
 103 ~~does not relieve a local government from complying with ~~the~~~~
 104 ~~provisions of chapter 200 and any related provision of law that~~
 105 ~~establishes millage caps or limits undesignated budget reserves~~
 106 ~~and procedures for establishing rollback rates for ad valorem~~
 107 ~~taxes and budget adoption. If surtax collections exceed~~
 108 ~~projected collections in any fiscal year, any surplus~~
 109 ~~distribution shall be used to further reduce ad valorem taxes in~~
 110 ~~the next fiscal year. These proceeds shall be applied as a~~
 111 ~~rebate to the final millage, after the TRIM notice is completed~~
 112 ~~in accordance with this provision.~~

113 ~~(g) Municipalities, special fire control and rescue~~
 114 ~~districts, and contract service providers that do not enter into~~
 115 ~~an interlocal agreement are not entitled to receive a portion of~~
 116 ~~the proceeds of the surtax collected under this subsection and~~

578-01926-15

2015668c1

117 are not required to reduce ad valorem taxes or non-ad valorem
118 assessments pursuant to paragraph (c).

119 ~~(h) The provisions of sub-subparagraph (d)1.a. and~~
120 ~~subparagraph (d)2. do not apply if:~~

121 ~~1. There is an interlocal agreement with the county and one~~
122 ~~or more participating jurisdictions which prohibits one or more~~
123 ~~jurisdictions from providing the same level of service for~~
124 ~~prehospital emergency medical treatment within the prohibited~~
125 ~~participating jurisdictions' boundaries; or~~

126 ~~2. The county has issued a certificate of public~~
127 ~~convenience and necessity or its equivalent to a county~~
128 ~~department or a dependent special district of the county.~~

129 (g)(i) Surtax collections shall be initiated on January 1
130 of the year following a successful referendum in order to
131 coincide with s. 212.054(5).

132 (h)(j) Notwithstanding s. 212.054, if a multicounty
133 independent special district created pursuant to chapter 67-764,
134 Laws of Florida, levies ad valorem taxes on district property to
135 fund emergency fire rescue services within the district and is
136 required by s. 2, Art. VII of the State Constitution to maintain
137 a uniform ad valorem tax rate throughout the district, the
138 county may not levy the discretionary sales surtax authorized by
139 this subsection within the boundaries of the district.

140 Section 2. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100



COMMITTEES:
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

March 5, 2015

The Honorable Dorothy Hukill, Chair
Senate Committee on Finance and Tax
207 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Hukill:

I respectfully request consideration of Senate Bill 668 regarding Emergency Fire Rescue Services and Facilities Tax. I would greatly appreciate the opportunity to present this legislation to the Committee on Finance and Tax at your earliest convenience. The bill was referred favorably from the Community Affairs Committee on March 4.

This bill deletes a provision requiring the county governing authority to develop and execute interlocal agreements with local government entities providing emergency fire and rescue services and requires a local government entity requesting and receiving certain personnel or equipment from another service provider to pay for such personnel or equipment from its share of surtax proceeds.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Latvala".

Jack Latvala
State Senator
District 20

Cc: Jose Diez-Arguelles, Staff Director; Lynn Wells, Administrative Assistant

REPLY TO:

- 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-30-15

Meeting Date

668

Bill Number (if applicable)

Topic Emergency Fire Rescue Surtax

Amendment Barcode (if applicable)

Name Lori Killinger

Job Title Attorney/lobbyist

Address 315 S. Calhoun St.

Phone 830 222 5702

Street

Tallahassee

City

FL

State

32308

Zip

Email lkillinge@lw-law.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Palm Beach Fire fighters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 722
INTRODUCER: Finance and Tax Committee and Senator Flores
SUBJECT: Aviation Fuel Tax
DATE: March 31, 2015 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Favorable
2.	Fournier	Diez-Arguelles	FT	Fav/CS
3.			AP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 722 reduces the excise tax rate imposed on aviation fuel, kerosene, and aviation gasoline, effective July 1, 2017. The bill also replaces the existing credit or refund of the tax paid for aviation fuel delivered by a licensed wholesaler or terminal supplier to an air carrier that offers transcontinental jet service and increases the air carrier’s Florida workforce by certain amounts with a credit or refund “for any of three air carriers that has the greatest growth during a state fiscal year, beginning July 1, 2015...” The bill provides factors to be used to determine which carrier or carriers will qualify for the credit or refund.

The bill requires the Department of Economic Opportunity to conduct a study of intrastate air service and flight training and education, which must be submitted in a report to the Governor, President of the Senate, and Speaker of the House of Representatives by November 13, 2015.

II. Present Situation:

Section 206.9825(1)(a), F.S., generally imposes an excise tax of 6.9 cents per gallon on every gallon of aviation fuel, kerosene, and aviation gasoline sold or brought into this state for use.¹ State taxes are imposed on net gallons when aviation fuel is:

- Removed from the terminal at the rack.

¹ Certain exemptions are authorized for kerosene used for home heating or cooking purposes. See subsection (2)(b),(c), and (d); and subsections (4) and (5) of s. 206.9825, F.S. Aviation fuel purchased by the United States is also exempt from the tax under s. 206.9875, F.S.

- Imported into Florida by means other than the bulk transfer system (e.g., pipelines and vessels) or by means of the bulk transfer system, and the importer of record is not licensed as a terminal supplier or importer.
- Sold to an unlicensed person unless there was a prior taxable removal, entry, or sale of the fuel.²

Section 206.9825(1)(b), F.S., authorizes any licensed³ wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and increases its Florida workforce by more than 1,000 percent, and by 250 or more full-time equivalent employee positions after January 1, 1996, to receive a credit or refund of the 6.9 cents per gallon tax. If the number of full-time equivalent employees created or added to the air carrier’s Florida workforce falls below 250 before July 1, 2001, the exemption taken by credit or refund does not apply during the period in which the carrier has fewer than the 250 additional employees.⁴ This credit or refund results in certain air carriers being able to buy aviation fuel tax free.

This credit or refund was first authorized in 1996⁵ and expired by its terms on July 1, 2001. Following the events of September 11, the Legislature re-enacted the exemption but did not include a sunset provision.⁶ Because the current language is tied to job creation for the five years after January 1, 1996, an air carrier that actually has been reducing its workforce since then could qualify for a refund because it employed more workers than it did before January 1, 1996, in numbers still sufficient to meet the thresholds. The Florida Department of Revenue (FDOR) provided the following information relating to entities receiving the credit or refund:

Sales of Aviation Fuel to Commercial Air Carriers⁷
July 2013 – June 2014

Air Carriers (Credit or Refund-Eligible Carriers are Shaded)	Sum of Gallons	% of Total Sales	Tax Due (Total gallons multiplied by tax rate, not reduced by credits or refunds)
AMERICAN AIRLINES INC.	202,050,355.00	22.24%	\$13,941,474.50
SOUTHWEST AIRLINES COMPANY	142,227,745.00	15.66%	\$9,813,714.41
DELTA AIR LINES INC.	137,858,527.00	15.17%	\$9,512,238.36
JETBLUE AIRWAYS CORPORATION	116,415,416.00	12.81%	\$8,032,663.70
CONTINENTAL AIRLINES INC.	77,802,200.00	8.56%	\$5,368,351.80
US AIRWAYS INC.	52,751,086.00	5.81%	\$3,639,824.93

² See Florida Department of Revenue website available at <http://dor.myflorida.com/dor/taxes/fuel/> (last visited Feb. 21, 2015) See also ss. 206.87(2) and 206.872, F.S.

³ Commercial air carriers must obtain an aviation fuel tax license and comply with reporting requirements under s. 206.9865, F.S.

⁴ This exemption does not apply to aviation gasoline. See. s. 206.9825(3), F.S.

⁵ Chapter 1996-323, s. 21, Laws of Fla.

⁶ Chapter 2002-218, s. 10, Laws of Fla.

⁷ E-mail from the Florida Department of Revenue to committee staff (Mar. 2, 2015) (on file in the Senate Committee on Transportation). The table does not include sales from fixed based operators or jobbers to commercial air carriers, all returns have not been processed through July 2014, and sales reports on unworked returns are not listed on this report, and the tax due is not reduced by the collection allowance.

Air Carriers (Credit or Refund-Eligible Carriers are Shaded)	Sum of Gallons	% of Total Sales	Tax Due (Total gallons multiplied by tax rate, not reduced by credits or refunds)
ALLEGIANT AIR LLC	49,826,891.00	5.48%	\$3,438,055.45
SPIRIT AIRLINES INC.	43,622,669.00	4.80%	\$3,009,964.16
AIRTRAN AIRWAYS INC.	40,516,854.00	4.46%	\$2,795,662.93
FEDERAL EXPRESS CORPORATION	19,010,670.00	2.09%	\$1,311,736.23
UNITED AIR LINES INC.	5,009,154.00	0.55%	\$345,631.63
AIR BERLIN PLC & CO LUFTVERKEHRS KG	4,370,595.00	0.48%	\$391,571.06
VIRGIN AMERICA INC.	3,327,819.00	0.37%	\$229,619.51
FRONTIER AIRLINES INC.	3,029,215.00	0.33%	\$209,015.84
NATIONAL JETS INC.	2,933,507.00	0.32%	\$202,411.98
UNITED PARCEL SERVICE COMPANY	2,138,690.00	0.24%	\$147,569.61
ENVOY AIR INC.	1,967,678.00	0.22%	\$135,769.78
SILVER AIRWAYS CORPORATION	1,653,121.00	0.18%	\$114,065.35
MIAMI AIR INTERNATIONAL INC.	1,329,196.00	0.15%	\$91,714.52
ATLAS AIR INC.	473,891.00	0.05%	\$32,698.48
AMERIJET INTERNATIONAL INC.	75,931.00	0.01%	\$5,239.24
HYANNIS AIR SERVICE INC.	23,621.00	0.00%	\$1,629.85
AERO JET INTERNATIONAL INC.	16,943.00	0.00%	\$1,169.07
PRESIDENTIAL AVIATION INC.	13,509.00	0.00%	\$932.12
ABX AIR INC.	11,982.00	0.00%	\$826.76
PROFESSIONAL FLIGHT TRANSPORT INC.	11,002.00	0.00%	\$759.14
AIR TRANSPORT INTERNATIONAL LLC	3,446.00	0.00%	\$237.77
Total	908,471,713.00	100.00%	\$62,684,548.20

After deducting the General Revenue service charge, administrative costs, and the air carrier credits or refunds under s. 206.9855, F.S.,⁸ the proceeds are ultimately distributed monthly to the State Transportation Trust Fund.⁹ Deposits into the State Transportation Trust Fund from the source for the last four years were:

- \$37.6 million in 2011.
- \$13.4 million in 2012.
- \$40.7 million in 2013.
- \$35.5 million in 2014.

III. Effect of Proposed Changes:

The bill reduces the current tax rate for aviation fuel, kerosene, and aviation gasoline from 6.9 cents to 5.4 cents per gallon effective July 1, 2017. In addition, the bill replaces the credits or refunds for aviation fuel delivered by a licensed wholesaler or terminal supplier to an air carrier that offers transcontinental jet service and increases the air carrier's Florida workforce by the specified amounts with a credit or refund "for any of three air carriers that has the greatest

⁸ That section authorizes a refund to for-hire air carriers of not more than 0.6 percent of the wages paid by the carrier to employees located or based within Florida and who are covered by the provisions of ch. 443, F.S., relating to reemployment assistance.

⁹ See s. 206.9845, F.S.

growth during a state fiscal year, beginning July 1, 2015...” The bill provides factors to be used to determine which carrier or carriers will qualify for the credit or refund. These are:

- The number of new jobs created in this state which are at or above this state’s average prevailing wage.
- Total capital investment in this state.
- The number of new routes established to or from this state.
- The number of ticket sales to or from this state.

The bill requires the Department of Economic Opportunity to conduct a study of intrastate air service and flight training and education, which must be submitted in a report to the Governor, President of the Senate, and Speaker of the House of Representatives by November 13, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not estimated the impact of this bill. A preliminary analysis by Senate staff indicates the bill will reduce revenue to the State Transportation Trust Fund and General Revenue by a significant amount.

B. Private Sector Impact:

Air carriers paying the current tax rate of 6.9 cents will realize a positive fiscal impact as a result of the reduced rate of 5.4 cents. Those carriers currently receiving the exemption through a credit or refund will realize a negative fiscal impact, offset by the reduced tax rate.¹⁰ Air carriers that become eligible to receive the newly-created exemption will realize an additional positive fiscal impact.

¹⁰ The impact of the loss of the exemption will also be somewhat offset by the refund to carriers under s, 206.9855, F.S. All carriers are eligible for this refund, but for the fully-exempt carriers there are no taxes to refund. For the period from 2010 through 2014, this offset would have averaged \$3.3 million.

C. Government Sector Impact:

The Department of Transportation advises it expects an indeterminate fiscal impact and notes that “[t]o the extent the tax revenue goes down, projects currently programmed in the work plan may be impacted.”¹¹

The Department of Economic Opportunity is required to conduct a study of intrastate commercial air service and flight training and education. The cost of conducting this study has not been estimated.

Although the bill does not identify which state agency will be responsible for determining the air carrier or carriers that are eligible for a fuel tax exemption through a credit or refund, this approval process will require additional resources for some agency.

VI. Technical Deficiencies:

It is not clear from the language of the bill whether the new credit or refund is available for one carrier or three carriers. The use of the singular verb (has) in the phrase “any of the three air carriers that has” suggests that a single carrier is eligible.

The bill does not identify which state agency is responsible for determining the air carrier or carriers that are eligible for the fuel tax exemption, and does not prescribe weights for the factors to be considered.

It is unclear from the bill whether qualification for the new exemption by credit or refund occurs once and continues indefinitely, based on the air carriers’ performance in fiscal year 2015-2016, or will occur every year with additional carriers becoming eligible.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 206.9825 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on March 30, 2015:

The CS delays the reduction in the aviation fuel tax rate until July 2017 and replaces the existing exemption for certain air carriers with an exemption for an air carrier or carriers that has the greatest growth during a state fiscal year, beginning July 1, 2017, as determined by specified criteria. It also requires the Department of Economic

¹¹ Florida Department of Transportation, *Senate Bill 722 Fiscal Analysis* (on file with the Senate Committee on Transportation).

Opportunity to conduct a study of intrastate commercial air service and flight training and education.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



222322

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/30/2015	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Soto) recommended the following:

Senate Amendment (with title amendment)

Delete lines 16 - 56

and insert:

(1) (a) Except as otherwise provided in this part, an excise tax of 5.4 ~~6.9~~ cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. Fuel taxed pursuant to



222322

11 this part shall not be subject to the taxes imposed by ss.
12 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).

13 (b) A Any licensed wholesaler or terminal supplier may
14 receive a credit or refund of the 5.4 cents excise tax paid by
15 the wholesaler or supplier for aviation fuel that is delivered
16 by the wholesaler or supplier ~~delivers aviation fuel~~ to any of
17 the three an air carriers carrier offering transeontinental jet
18 service and that has the greatest growth during a state fiscal
19 year, beginning July 1, 2015, as determined by the following
20 factors:

21 1. The number of new jobs created in this state which are
22 at or above this state's average prevailing wage.

23 2. Total capital investment in this state.

24 3. The number of new routes established to or from this
25 state.

26 4. The number of ticket sales to or from this state, after
27 January 1, 1996, increases the air carrier's Florida workforce
28 by more than 1000 percent and by 250 or more full-time
29 equivalent employee positions, may receive a credit or refund as
30 the ultimate vendor of the aviation fuel for the 6.9 cents
31 excise tax previously paid, provided that the air carrier has no
32 facility for fueling highway vehicles from the tank in which the
33 aviation fuel is stored. In calculating the new or additional
34 Florida full-time equivalent employee positions, any full-time
35 equivalent employee positions of parent or subsidiary
36 corporations which existed before January 1, 1996, shall not be
37 counted toward reaching the Florida employment increase
38 thresholds.

39 The refund allowed under this paragraph is in furtherance of the



222322

40 goals and policies of the State Comprehensive Plan set forth in
41 s. 187.201(16) (a), (b)1., 2., (17) (a), (b)1., 4., (19) (a),
42 (b)5., (21) (a), (b)1., 2., 4., 7., 9., and 12.

43 ~~(c) If, before July 1, 2001, the number of full-time~~
44 ~~equivalent employee positions created or added to the air~~
45 ~~carrier's Florida workforce falls below 250, the exemption~~
46 ~~granted pursuant to this section shall not apply during the~~
47 ~~period in which the air carrier has fewer than the 250~~
48 ~~additional employees.~~

49 ~~(d)~~ The exemption taken by credit or refund pursuant to
50 paragraph (b) applies ~~shall apply~~ only under the terms and
51 conditions set forth therein. If any part of that paragraph is
52 judicially declared to be unconstitutional or invalid, the
53 validity of any provisions taxing aviation fuel shall not be
54 affected and all fuel exempted pursuant to paragraph (b) shall
55 be subject to tax as if the exemption was never enacted. Every
56 person benefiting from such exemption shall be liable for and
57 make payment of all taxes for which a credit or refund was
58 granted.

59
60 ===== T I T L E A M E N D M E N T =====

61 And the title is amended as follows:

62 Delete lines 4 - 7

63 and insert:

64 tax on certain aviation fuels; revising the criteria
65 to receive an excise tax exemption for certain
66 aviation fuel delivered by licensed wholesalers or
67 terminal suppliers; deleting obsolete language;



797252

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/30/2015	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Flores) recommended the following:

Senate Amendment (with title amendment)

Between lines 75 and 76
insert:

Section 2. The Department of Economic Opportunity shall conduct a study of intrastate commercial air service and flight training and education and develop recommendations for policies that are likely to improve the quality of such service, training, and education. The study must include an analysis of historic trends in intrastate commercial air service and must



797252

11 identify factors that have affected prices and the frequency of
12 flights between destinations in this state. The study must also
13 compare the incentives provided by this state to the commercial
14 airline industry, generally, and to specific air carriers with
15 similar incentives that have been provided by other states and
16 must evaluate the effect that these incentives have had on
17 commercial air service in this state and other states. The
18 department shall submit a report on the study to the Governor,
19 the President of the Senate, and the Speaker of the House of
20 Representatives on or before November 13, 2015.

21
22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Delete lines 2 - 7

25 and insert:

26 An act relating to aviation; amending s. 206.9825,
27 F.S.; revising the tax rate of the excise tax on
28 certain aviation fuels; deleting an excise tax
29 exemption for certain aviation fuel delivered by
30 licensed wholesalers or terminal suppliers that
31 increase the state's workforce by certain amounts;
32 requiring the Department of Economic Opportunity to
33 conduct a study on specified issues relating to
34 intrastate commercial air service and flight training
35 and education; requiring the department to submit a
36 report on the study to the Governor and the
37 Legislature by a specified date;



682796

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/30/2015	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Flores) recommended the following:

Senate Amendment (with directory and title amendments)

Delete line 76

and insert:

Section 2. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2015.

===== **D I R E C T O R Y C L A U S E A M E N D M E N T**=====

And the directory clause is amended as follows:

Delete line 12



682796

11 and insert:

12 Section 1. Effective July 1, 2017, subsection (1),
13 paragraph (a) of subsection (2),

14

15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 Delete line 8

18 and insert:

19 providing effective dates.

By Senator Flores

37-00551-15

2015722__

1 A bill to be entitled
 2 An act relating to aviation fuel tax; amending s.
 3 206.9825, F.S.; revising the tax rate of the excise
 4 tax on certain aviation fuels; deleting an excise tax
 5 exemption for certain aviation fuel delivered by
 6 licensed wholesalers or terminal suppliers that
 7 increase the state's workforce by certain amounts;
 8 providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Subsection (1), paragraph (a) of subsection (2),
 13 and subsections (3), (4), and (5) of section 206.9825, Florida
 14 Statutes, are amended to read:
 15 206.9825 Aviation fuel tax.-
 16 (1)(a) Except as otherwise provided in this part, an excise
 17 tax of 5.4 ~~6.9~~ cents per gallon of aviation fuel is imposed upon
 18 every gallon of aviation fuel sold in this state, or brought
 19 into this state for use, upon which such tax has not been paid
 20 or the payment thereof has not been lawfully assumed by some
 21 person handling the same in this state. Fuel taxed pursuant to
 22 this part shall not be subject to the taxes imposed by ss.
 23 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).
 24 ~~(b) Any licensed wholesaler or terminal supplier that~~
 25 ~~delivers aviation fuel to an air carrier offering~~
 26 ~~transcontinental jet service and that, after January 1, 1996,~~
 27 ~~increases the air carrier's Florida workforce by more than 1000~~
 28 ~~percent and by 250 or more full-time equivalent employee~~
 29 ~~positions, may receive a credit or refund as the ultimate vendor~~

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

37-00551-15

2015722__

30 of the aviation fuel for the 6.9 cents excise tax previously
 31 paid, provided that the air carrier has no facility for fueling
 32 highway vehicles from the tank in which the aviation fuel is
 33 stored. In calculating the new or additional Florida full-time
 34 equivalent employee positions, any full-time equivalent employee
 35 positions of parent or subsidiary corporations which existed
 36 before January 1, 1996, shall not be counted toward reaching the
 37 Florida employment increase thresholds. The refund allowed under
 38 this paragraph is in furtherance of the goals and policies of
 39 the State Comprehensive Plan set forth in s. 187.201(16)(a),
 40 ~~(b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1.,~~
 41 ~~2., 4., 7., 9., and 12.~~
 42 ~~(c) If, before July 1, 2001, the number of full-time~~
 43 ~~equivalent employee positions created or added to the air~~
 44 ~~carrier's Florida workforce falls below 250, the exemption~~
 45 ~~granted pursuant to this section shall not apply during the~~
 46 ~~period in which the air carrier has fewer than the 250~~
 47 ~~additional employees.~~
 48 ~~(d) The exemption taken by credit or refund pursuant to~~
 49 ~~paragraph (b) shall apply only under the terms and conditions~~
 50 ~~set forth therein. If any part of that paragraph is judicially~~
 51 ~~declared to be unconstitutional or invalid, the validity of any~~
 52 ~~provisions taxing aviation fuel shall not be affected and all~~
 53 ~~fuel exempted pursuant to paragraph (b) shall be subject to tax~~
 54 ~~as if the exemption was never enacted. Every person benefiting~~
 55 ~~from such exemption shall be liable for and make payment of all~~
 56 ~~taxes for which a credit or refund was granted.~~
 57 (2)(a) An excise tax of 5.4 ~~6.9~~ cents per gallon is imposed
 58 on each gallon of kerosene in the same manner as prescribed for

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

37-00551-15

2015722__

59 diesel fuel under ss. 206.87(2) and 206.872.

60 (3) An excise tax of 5.4 ~~6.9~~ cents per gallon is imposed on
61 each gallon of aviation gasoline in the manner prescribed by
62 paragraph (2) (a). However, the exemptions allowed by paragraph
63 (2) (b) do not apply to aviation gasoline.

64 (4) Any licensed wholesaler or terminal supplier that
65 delivers undyed kerosene to a residence for home heating or
66 cooking may receive a credit or refund as the ultimate vendor of
67 the kerosene for the 5.4 ~~6.9~~ cents excise tax previously paid.

68 (5) Any licensed wholesaler or terminal supplier that
69 delivers undyed kerosene to a retail dealer not licensed as a
70 wholesaler or terminal supplier for sale as a home heating or
71 cooking fuel may receive a credit or refund as the ultimate
72 vendor of the kerosene for the 5.4 ~~6.9~~ cents excise tax
73 previously paid, provided the retail dealer has no facility for
74 fueling highway vehicles from the tank in which the kerosene is
75 stored.

76 Section 2. This act shall take effect July 1, 2015.



The Florida Senate

Committee Agenda Request

To: Senator Dorothy L. Hukill, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: March 10, 2015

I respectfully request that **Senate Bill #722**, relating to Aviation Fuel Tax, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Anitere Flores".

Senator Anitere Flores
Florida Senate, District 37

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-30-14

Meeting Date

722

Bill Number (if applicable)

Topic Aviation Jet Fuel

Amendment Barcode (if applicable)

Name Stephen Shiver

Job Title Partner - Cardenas Partners

Address Street

Phone 222 820

City State Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Jet Blue Airways

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Mar. 30, 2015

Meeting Date

SB 722

Bill Number (if applicable)

Topic Aviation Jet Fuel Tax - SB 722

Amendment Barcode (if applicable)

Name Sherri Hull

Job Title Southwest Airlines

Address 3208 Rustic River Cove

Phone 512-326-2251

City State Zip Austin TX

Email Sherri.hull@wnco.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/2015

Meeting Date

Topic _____

Bill Number 722
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

722

Bill Number (if applicable)

Topic AVIATION FUEL TAX

Amendment Barcode (if applicable)

Name Keith Hansen

Job Title DIRECTOR OF AIRPORT OPERATIONS

Address 1201 N. Town Center Dr

Phone 702.830.8187

Street

LAS VEGAS NV 89144

Email Keith.hansen@allegiantair.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ALLEGiant AIRLINES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

8/30/15

Meeting Date

722

Bill Number (if applicable)

Topic AVIATION FUEL TAX

Amendment Barcode (if applicable)

Name Jen Gaviria

Job Title GOV'T CONSULTANT

Address 101 EAST COLLEGE AVE, 502

Phone (954) 648-9977

Street Tallahassee FL 32301
City State Zip

Email kgaviria@deputyconsult.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Delta Air Lines

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15

Meeting Date

SB 722

Bill Number (if applicable)

Topic AVIATION FUEL TAX

Amendment Barcode (if applicable)

Name DAVID DANIEL

Job Title _____

Address 311 EAST PARK AVENUE

Phone 224-5081

Street Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing UNITED AIRLINES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 972

INTRODUCER: Finance and Tax Committee and Senator Flores

SUBJECT: Value Adjustment Boards

DATE: March 31, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 972 makes several changes to value adjustment board (VAB) proceedings. The bill:

- Requires a petition to the VAB to be signed by the taxpayer, or be accompanied by the taxpayer's written authorization for representation, which is only valid for one tax year.
- Limits the persons who can represent taxpayers before the VAB to certain professionals, a corporate representative of the taxpayer, or an uncompensated individual with a power of attorney from the taxpayer.
- Requires the property appraiser to notify the petitioner when the property record card is available online.
- Authorizes a petitioner to reschedule a hearing twice, for good cause only.
- Changes the rate of interest for overpayments and underpayments from 12 percent to the prime rate.
- Allows district school boards and district county commissions to audit VAB expenses.
- Requires all VAB petitions to be resolved by the June 1 following the assessment year.

The Revenue Estimating Conference has estimated that the interest rate change will increase local government revenues by \$8.7 million in Fiscal Year 2015-2016.

The bill provides an effective date of July 1, 2015.

II. Present Situation:

Overview of the Ad Valorem Process

In Florida, ad valorem taxation is reserved to local governments.¹ The process for levying and providing administrative review of the ad valorem tax generally involves the property appraiser, tax collector, VAB, and local taxing authorities.

Property appraisers establish each property's just value² as of January 1 of each year and apply applicable exemptions, classifications, or assessment limitations to determine the property's taxable value. Local taxing authorities set a millage rate (i.e., tax rate) that is levied on the property's taxable value. Each August, property appraisers send property owners a Notice of Proposed Property Taxes (TRIM Notice), which identifies the just, assessed, and taxable values of the property and the tax that will be due based on the millage rates proposed by local governments.³

Property owners who disagree with the property appraiser's assessment of the property or the denial of an exemption or property classification may:

- Request an informal meeting with the property appraiser;⁴
- Appeal to the county VAB;⁵ or
- Challenge the assessment in circuit court.⁶

Petitions to the VAB are due by mid-September and hearings begin in October. Taxes become payable on November 1. In many counties, the VAB cannot complete its hearings before November 1. In this situation, the Board of County Commissioners will instruct the tax collector to begin issuing tax notices based on the initial tax roll, but the board will also extend the roll for completion of VAB proceedings. As part of extending the roll, the board will require the VAB to certify the portion of the roll that it has completed.⁷

Within 20 working days of receiving the certified tax roll, tax collectors send each taxpayer a tax notice.⁸ Property taxes generally are due November 1 and are delinquent on April 1 of the following year.⁹ Tax collectors collect all ad valorem taxes levied by the county, school district,

¹ FLA. CONST. art. VII, s. 1(a) (stating that no state ad valorem taxes shall be levied upon real estate or tangible personal property).

² In arriving at just valuation, the county property appraiser takes into consideration the eight factors enumerated in s. 193.011, F.S. In 1965, the Supreme Court in *Walter v. Shuler* made the oft-quoted statement that just valuation is legally synonymous with market value and that it "may be established by the classic formula that it is the amount 'a purchaser willing but not obliged to buy, would pay to one willing but not obliged to sell.'" 176 So. 2d 81, 86 (Fla. 1965); see also *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973); *Holly Ridge Ltd. Partnership v. Pritchett*, 936 So. 2d 694 (Fla. 5th DCA 2006).

³ Section 200.069, F.S.

⁴ Section 194.011(2), F.S.

⁵ Section 194.011(3), F.S.

⁶ Section 194.171, F.S.

⁷ See ss. 193.122(1) and 197.323, F.S.

⁸ Section 197.322, F.S.

⁹ Section 197.333, F.S.

municipalities, and any special taxing districts within the county, and then distribute the taxes to each taxing authority.¹⁰

Taxpayers with unresolved petitions remaining before the VAB on April 1 must pay at least 75 percent of the initial ad valorem tax assessment by April 1.¹¹ Once the VAB has completed its review of all petitions – oftentimes months later – the VAB will issue its second, or “final,” certification of the VAB’s changes to the roll.¹² In a few large counties, the VAB can take in excess of 1 year to complete its review of all petitions and issue its final certification. Tax collectors will collect and distribute any additional taxes received as a result of final VAB decisions.

Value Adjustment Boards

Chapter 194, F.S., provides for administrative and judicial review of tax assessments. Each county in Florida has a VAB composed of five members¹³ that reviews appeals of the ad valorem tax decisions made by property appraisers.¹⁴ A property owner may petition the VAB to review the property appraiser’s assessment of real or tangible personal property or the denial of an exemption or classification.

Counties with a population greater than 75,000 are required to hire special magistrates to conduct valuation hearings. Before conducting hearings, the VAB must hold an organizational meeting to appoint special magistrates and legal counsel and to perform other administrative functions.¹⁵

The VAB must appoint private counsel who has practiced law for over five years and who shall receive such compensation as may be established by the VAB.¹⁶ The private counsel may not represent the property appraiser, the tax collector, any taxing authority, or any property owner in any administrative or judicial review of property taxes. No meeting of the board shall take place unless counsel to the board is present.

Petition Process for VAB Hearing

A petitioner initiates a review of a property assessment by filing a petition in the VAB. Each petition may be subject to a filing fee, up to \$15.¹⁷ Generally, anyone may represent the property owner before a VAB. Value adjustment board petitions may be found at the DOR website,¹⁸ the County Property Appraiser’s office, and in most counties at the office or website of the VAB Clerk. The clerk of the VAB¹⁹ is responsible for receiving completed petitions, acknowledging

¹⁰ Section 197.383, F.S.

¹¹ Section 194.014, F.S.

¹² Section 193.122, F.S.

¹³ Section 194.015, F.S.

¹⁴ Section 194.011, F.S.

¹⁵ Section 194.011(5)(a)2., F.S.

¹⁶ Section 194.015, F.S.

¹⁷ Section 194.013, F.S.

¹⁸ See Rule 12D-9.015, F.A.C.; Dep’t of Revenue, *Value Adjustment Board Forms and Calendar*, available at <http://dor.myflorida.com/dor/property/forms/index.html#11> (last visited Mar. 25, 2015) (See Form DR-486).

¹⁹ The county clerk usually serves as the clerk of the VAB. Section 194.015, F.S.

receipt to the taxpayer, sending a copy of the petition to the property appraiser, and scheduling appearances before the VAB.

Property Record Cards

Prior to the hearing, an exchange of evidence can take place between the petitioner and the property appraiser, if so requested in writing. Regardless of whether petitioners initiate an evidence exchange, the property appraiser is required to provide the property record card²⁰ to petitioners on receipt of the petition, unless the property record card is available online from the property appraiser.²¹

Property appraisers maintain records of assessment information for assessed properties. A property's record of information is often referred to as the "property record card." On a petition to the VAB, a petitioner may elect to receive a copy of the property record card. Prior to 2013, the clerk of the VAB was required to provide a copy of the card when the petitioner made the election on the petition. Section 8, ch. 2013-109, Laws of Florida, shifted this responsibility from the clerk of the VAB to the property appraiser.

Interest

If a petition to the VAB is still pending when the taxes become delinquent on April 1, the petitioner is required to pay 75 percent of the ad valorem taxes due.²² Overpayments and underpayments accrue interest at the rate of 12 percent per year.²³ If the VAB determines that the petitioner owes ad valorem taxes in excess of the amount paid, the unpaid amount accrues interest at the rate of 12 percent per year from the date the taxes became delinquent until the unpaid amount is paid. If the VAB determines that a refund is due, the overpaid amount similarly accrues interest at the rate of 12 percent per year from the date the taxes became delinquent until a refund is paid. Interest does not accrue on amounts paid in excess of 100 percent of the current taxes due as provided on the tax notice issued.

Department of Revenue Oversight

The Department of Revenue (DOR) supervises the assessment and valuation of property so that all property is placed on the tax rolls and valued according to its just valuation.²⁴ Additionally, the DOR prescribes and furnishes all forms as well as prescribes rules and regulations to be used by property appraisers, tax collectors, clerks of circuit court, and value adjustment boards in administering and collecting ad valorem taxes.²⁵

Assessment rolls must be submitted to the DOR on or before July 1.²⁶ By definition, "complete submission of the rolls" includes, but is not limited to:

- Accurate tabular summaries of valuations as prescribed by DOR rule;

²⁰ A property record card contains relevant information used in computing the petitioner's current assessment.

²¹ Section 194.032(2)(a), F.S.; See Chapter 2013-109, s. 8, Laws of Fla. (SB 556).

²² Section 194.014(1)(a), F.S.

²³ Section 194.014(2), F.S.

²⁴ Section 195.002, F.S.

²⁵ Chapter 195, F.S.

²⁶ Section 193.1142, F.S.

- An electronic copy of the real property assessment roll including for each parcel total value of improvements, land value, the recorded selling prices, other ownership transfer data required for an assessment roll, the value of any improvement made to the parcel in the 12 months preceding the valuation date, the type and amount of any exemption granted, and such other information as may be required by DOR rule;
- An accurate tabular summary by property class of any adjustments made to recorded selling prices or fair market value in arriving at assessed value, as prescribed by DOR rule;
- An electronic copy of the tangible personal property assessment roll, including for each entry a unique account number and such other information as may be required by DOR rule; and
- An accurate tabular summary of per-acre land valuations used for each class of agricultural property in preparing the assessment roll, as prescribed by DOR rule.²⁷

The DOR uses Form DR-493, promulgated through rule 12D-8.002(4), F.A.C., to track the adjustments made to fair market value.

Section 194.011, F.S., provides in part that the DOR is required to develop:

- Uniform procedures for hearings before the value adjustment board, and
- A policies and procedures manual for value adjustment boards, special magistrates, and property owners to use in proceedings before the value adjustment board.

In addition, s. 194.035(3), F.S., provides that the DOR shall provide and conduct training for special magistrates at least once each state fiscal year in at least five locations throughout the state. Such training emphasizes the DOR standard measures of value, including the guidelines for real and tangible personal property. A person who has three years of relevant experience and who has completed the training provided by the DOR may be appointed as a special magistrate. The training is open to the public.

Recommendations Concerning the VAB Process

In a December 2010 report,²⁸ the Office of Program Policy Analysis and Government Accountability, found that counties and other participants in the VAB process were likely incurring increased costs, and the time county boards take to complete the process varies, but has increased in recent years due to factors such as:

- Growing numbers of petitions,
- Recent changes in state law and administrative rules, and
- Involvement of property tax representatives.

The Office of Program Policy Analysis and Government Accountability recommended that “if the Legislature wishes to make additional changes to the VAB process, it could consider options to (1) shorten the process; (2) address costs and other fiscal implications; and (3) increase accountability.”

²⁷ Section 192.001(18), F.S.

²⁸ The Florida Legislature Office of Program Policy Analysis and Gov’t Accountability, Florida Legislature, *Time and Costs Are Increasing for Counties to Complete the Value Adjustment Board Process*, Report No. 10-64 (Dec. 2010).

In its March 2015 internal audit report,²⁹ the Miami-Dade County Public Schools Office of Management and Compliance Audits makes 11 recommendations concerning the VAB process. The audit explains that delays to the final certification of the county's tax roll negatively and significantly affect the school district's ability to fund its operations. The Miami-Dade audit notes that the number of days between the first and last hearing date by the VAB was 802 days in tax year 2009, 535 days in tax year 2010, 492 days in tax year 2011, and 519 days in tax year 2012. Having such a lag in reporting the final tax roll to DOR restricts the school district's revenue, and may affect its ability to receive full funding in the appropriations bill in the year appropriated by the Florida Legislature. The audit found:

- Inconsistencies between rules and statute, particularly as it pertains to DOR rules on rescheduling hearings;
- Lack of compliance with statutes and rules, such as petitions presented by unlicensed agents without signed or written authorization from the taxpayer; and
- Internal control weakness, with one example being no limitation placed on the incentive to overpay and collect interest at 12 percent annual percentage rate.

Taxpayer Bill of Rights

The Florida Statutes set forth a general taxpayer bill of rights in s. 213.015, F.S., and a property tax specific taxpayer bill of rights in s. 192.0105, F.S. The Florida Taxpayer's Bill of Rights for property taxes and assessments was created to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. These rights are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the DOR. Section 192.0105, F.S., sets forth the taxpayer rights along with cross references to where those rights are effectuated. The rights are categorized as follows: the right to know, the right to due process, the right to redress, and the right to confidentiality.

III. Effect of Proposed Changes:

Sections 1 and 8 amend s. 194.034, F.S., to limit the persons that are authorized to represent petitioners before VABs to include: a corporate representative of the taxpayer, an attorney who is a member of the Florida bar, a real estate appraiser licensed under ch. 475, a real estate broker licensed under ch. 475, or a certified public accountant licensed under ch. 473, retained by the taxpayer, or an uncompensated individual with a power of attorney to act on behalf of the taxpayer. The bill makes conforming changes to s. 192.0105, F.S.

Sections 2 and 3 amend s. 193.122, F.S., to provide that a VAB must complete its second certification of the assessment roll by June 1 following the year the tax roll is assessed. The change first applies to the 2017 tax roll.

Section 4 amends s. 194.011, F.S., to require that petitions be signed by the taxpayer or be accompanied by the taxpayer's written authorization for representation. A new written authorization for representation is required each year.

²⁹ Miami-Dade County Public Schools Office of Management and Compliance Audits, *Audit of the Miami-Dade County Value Adjustment Board (VAB) Appeals Process – Phase 1* (March 2015).

Section 5 amends s. 194.014, F.S., to change the interest rate on overpayments and underpayments from 12 percent to the interest rate less four percentage points determined by the executive director of the Department of Revenue under s. 213.235, F.S.

Section 6 amends s. 194.015, F.S., to allow district school boards and district county commissions to audit expenses related to the VAB process.

Section 7 amends s. 194.032, F.S., to:

- Require the property appraiser to notify a petitioner when property record cards are available online.
- Allow a petitioner to reschedule a hearing twice, only for good cause.

Section 9 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has estimated that the interest rate change will increase local government recurring revenues by \$8.7 million in Fiscal Year 2015-2016.

For Miami-Dade and Broward counties, staff estimates that section two of the bill will increase Fiscal Year 2017-2018 receipts by approximately \$50 million and reduce Fiscal Year 2018-2019 receipts by approximately \$50 million, assuming that the counties can meet the June 1 deadline required by that section of the bill. For other counties, the impact is indeterminate.

B. Private Sector Impact:

By increasing accountability of the VAB process, the bill may make the VAB process more efficient and easier to navigate for petitioners and their authorized agents.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 192.0105, 193.122, 194.011, 194.014, 194.015, 194.032, and 194.034.

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

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

CS by Finance and Tax on March 30, 2015:

The CS:

- Delays the new June 1 VAB completion requirement until the 2017 tax roll.
- Uses the prime rate of interest determined by the executive director of the Department of Revenue pursuant to s. 213.235, F.S., and deletes reference to the Wall Street Journal.
- Removes the DOR oversight of the VAB process and review of VABs that receive in excess of 10,000 petitions per year.
- Adds uncompensated individuals with powers of attorney to act on behalf of the taxpayer to the list of persons who may represent taxpayers before VABs.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2015	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (f) of subsection (2) of section
192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.—There is created a Florida
Taxpayer's Bill of Rights for property taxes and assessments to
guarantee that the rights, privacy, and property of the
taxpayers of this state are adequately safeguarded and protected



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11 during tax levy, assessment, collection, and enforcement
12 processes administered under the revenue laws of this state. The
13 Taxpayer's Bill of Rights compiles, in one document, brief but
14 comprehensive statements that summarize the rights and
15 obligations of the property appraisers, tax collectors, clerks
16 of the court, local governing boards, the Department of Revenue,
17 and taxpayers. Additional rights afforded to payors of taxes and
18 assessments imposed under the revenue laws of this state are
19 provided in s. 213.015. The rights afforded taxpayers to assure
20 that their privacy and property are safeguarded and protected
21 during tax levy, assessment, and collection are available only
22 insofar as they are implemented in other parts of the Florida
23 Statutes or rules of the Department of Revenue. The rights so
24 guaranteed to state taxpayers in the Florida Statutes and the
25 departmental rules include:

26 (2) THE RIGHT TO DUE PROCESS.—

27 (f) The right, in value adjustment board proceedings, to
28 have all evidence presented and considered at a public hearing
29 at the scheduled time, to be represented by a person specified
30 in s. 194.034(1)(a) an attorney or agent, to have witnesses
31 sworn and cross-examined, and to examine property appraisers or
32 evaluators employed by the board who present testimony (see ss.
33 194.034(1)(a) and (c) and (4), and 194.035(2)).

34 Section 2. Effective July 1, 2017, subsection (3) of
35 section 193.122, Florida Statutes, is amended to read:

36 193.122 Certificates of value adjustment board and property
37 appraiser; extensions on the assessment rolls.—

38 (3) When the tax rolls have been extended pursuant to s.
39 197.323, the second certification of the value adjustment board



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40 shall reflect all changes made by the board together with any
41 adjustments or changes made by the property appraiser. The value
42 adjustment board must hear all petitions and issue its second
43 certification by June 1 following the year in which the taxes
44 were assessed. Upon the value adjustment board's second such
45 certification, the property appraiser shall recertify the tax
46 rolls with all changes to the collector and shall provide public
47 notice of the date and fact of recertification pursuant to
48 subsection (2).

49 Section 3. The amendment to s. 193.122, Florida Statutes,
50 made by this act first applies to the 2017 tax roll.

51 Section 4. Subsection (3) of section 194.011, Florida
52 Statutes, is amended to read:

53 194.011 Assessment notice; objections to assessments.—

54 (3) A petition to the value adjustment board must be in
55 substantially the form prescribed by the department.
56 Notwithstanding s. 195.022, a county officer may not refuse to
57 accept a form provided by the department for this purpose if the
58 taxpayer chooses to use it. A petition to the value adjustment
59 board must be signed by the taxpayer or accompanied by the
60 taxpayer's written authorization for representation by a person
61 specified in s. 194.034(1)(a). A written authorization is valid
62 for 1 tax year, and a new written authorization by the taxpayer
63 shall be required for each subsequent tax year. A petition shall
64 also describe the property by parcel number and shall be filed
65 as follows:

66 (a) The property appraiser shall have available and shall
67 distribute forms prescribed by the Department of Revenue on
68 which the petition shall be made. Such petition shall be sworn



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69 to by the petitioner.

70 (b) The completed petition shall be filed with the clerk of
71 the value adjustment board of the county, who shall acknowledge
72 receipt thereof and promptly furnish a copy thereof to the
73 property appraiser.

74 (c) The petition shall state the approximate time
75 anticipated by the taxpayer to present and argue his or her
76 petition before the board.

77 (d) The petition may be filed, as to valuation issues, at
78 any time during the taxable year on or before the 25th day
79 following the mailing of notice by the property appraiser as
80 provided in subsection (1). With respect to an issue involving
81 the denial of an exemption, an agricultural or high-water
82 recharge classification application, an application for
83 classification as historic property used for commercial or
84 certain nonprofit purposes, or a deferral, the petition must be
85 filed at any time during the taxable year on or before the 30th
86 day following the mailing of the notice by the property
87 appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173,
88 or s. 196.193 or notice by the tax collector under s. 197.2425.

89 (e) A condominium association, cooperative association, or
90 any homeowners' association as defined in s. 723.075, with
91 approval of its board of administration or directors, may file
92 with the value adjustment board a single joint petition on
93 behalf of any association members who own parcels of property
94 which the property appraiser determines are substantially
95 similar with respect to location, proximity to amenities, number
96 of rooms, living area, and condition. The condominium
97 association, cooperative association, or homeowners' association



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98 as defined in s. 723.075 shall provide the unit owners with
99 notice of its intent to petition the value adjustment board and
100 shall provide at least 20 days for a unit owner to elect, in
101 writing, that his or her unit not be included in the petition.

102 (f) An owner of contiguous, undeveloped parcels may file
103 with the value adjustment board a single joint petition if the
104 property appraiser determines such parcels are substantially
105 similar in nature.

106 (g) The individual, agent, or legal entity that signs the
107 petition becomes an agent of the taxpayer for the purpose of
108 serving process to obtain personal jurisdiction over the
109 taxpayer for the entire value adjustment board proceedings,
110 including any appeals of a board decision by the property
111 appraiser pursuant to s. 194.036.

112 Section 5. Subsection (2) of section 194.014, Florida
113 Statutes, is amended to read:

114 194.014 Partial payment of ad valorem taxes; proceedings
115 before value adjustment board.—

116 (2) If the value adjustment board determines that the
117 petitioner owes ad valorem taxes in excess of the amount paid,
118 the unpaid amount accrues interest at an annual percentage rate
119 equal to the interest rate determined by the executive director
120 of the Department of Revenue under s. 213.235 less 4 percentage
121 points, beginning on ~~the rate of 12 percent per year from~~ the
122 date the taxes became delinquent pursuant to s. 197.333 until
123 the unpaid amount is paid. If the value adjustment board
124 determines that a refund is due, the overpaid amount accrues
125 interest at an annual percentage rate equal to the interest rate
126 determined by the executive director of the Department of



127 Revenue under s. 213.235 less 4 percentage points, beginning on
128 the rate of 12 percent per year from the date the taxes became
129 delinquent pursuant to s. 197.333 until a refund is paid.
130 Interest does not accrue on amounts paid in excess of 100
131 percent of the current taxes due as provided on the tax notice
132 issued pursuant to s. 197.322.

133 Section 6. Section 194.015, Florida Statutes, is amended to
134 read:

135 194.015 Value adjustment board. ~~There is hereby created~~ A
136 value adjustment board is created for each county, which shall
137 consist of two members of the governing body of the county as
138 elected from the membership of the board of said governing body,
139 one of whom shall be elected chairperson, and one member of the
140 school board as elected from the membership of the school board,
141 and two citizen members, one of whom shall be appointed by the
142 governing body of the county and must own homestead property
143 within the county and one of whom must be appointed by the
144 school board and must own a business occupying commercial space
145 located within the school district. A citizen member may not be
146 a member or an employee of any taxing authority, and may not be
147 a person who represents property owners in any administrative or
148 judicial review of property taxes. The members of the board may
149 be temporarily replaced by other members of the respective
150 boards on appointment by their respective chairpersons. Any
151 three members shall constitute a quorum of the board, except
152 that each quorum must include at least one member of said
153 governing board, at least one member of the school board, and at
154 least one citizen member and no meeting of the board shall take
155 place unless a quorum is present. Members of the board may



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156 receive such per diem compensation as is allowed by law for
157 state employees if both bodies elect to allow such compensation.
158 The clerk of the governing body of the county shall be the clerk
159 of the value adjustment board. The board shall appoint private
160 counsel who has practiced law for over 5 years and who shall
161 receive such compensation as may be established by the board.
162 The private counsel may not represent the property appraiser,
163 the tax collector, any taxing authority, or any property owner
164 in any administrative or judicial review of property taxes. A ~~No~~
165 meeting of the board may not shall take place unless counsel to
166 the board is present. Two-fifths of the expenses of the board
167 shall be borne by the district school board and three-fifths by
168 the district county commission. The district school board and
169 the county commission may audit the expenses related to the
170 value adjustment board process.

171 Section 7. Paragraph (a) of subsection (2) of section
172 194.032, Florida Statutes, is amended to read:

173 194.032 Hearing purposes; timetable.-

174 (2) (a) The clerk of the governing body of the county shall
175 prepare a schedule of appearances before the board based on
176 petitions timely filed with him or her. The clerk shall notify
177 each petitioner of the scheduled time of his or her appearance
178 at least 25 calendar days before the day of the scheduled
179 appearance. The notice must indicate whether the petition has
180 been scheduled to be heard at a particular time or during a
181 block of time. If the petition has been scheduled to be heard
182 within a block of time, the beginning and ending of that block
183 of time must be indicated on the notice; however, as provided in
184 paragraph (b), a petitioner may not be required to wait for more



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185 than a reasonable time, not to exceed 2 hours, after the
186 beginning of the block of time. If the petitioner checked the
187 appropriate box on the petition form to request a copy of the
188 property record card containing relevant information used in
189 computing the current assessment, the property appraiser must
190 provide the copy to the petitioner upon receipt of the petition
191 from the clerk regardless of whether the petitioner initiates
192 evidence exchange, unless the property record card is available
193 online from the property appraiser, in which case the property
194 appraiser must notify the petitioner that the property record
195 card is available online. Upon receipt of the notice, the
196 petitioner, for good cause, may reschedule the hearing no more
197 than twice ~~a single time~~ by submitting to the clerk a written
198 request to reschedule, at least 5 calendar days before the day
199 of the originally scheduled hearing.

200 Section 8. Paragraph (a) of subsection (1) of section
201 194.034, Florida Statutes, is amended to read:

202 194.034 Hearing procedures; rules.—

203 (1) (a) Petitioners before the board may be represented by a
204 corporate representative of the taxpayer, an attorney who is a
205 member of The Florida Bar, a real estate appraiser licensed
206 under chapter 475, a real estate broker licensed under chapter
207 475, or a certified public accountant licensed under chapter
208 473, retained by the taxpayer, or an individual with power of
209 attorney to act on behalf of the taxpayer who receives no
210 compensation, ~~an attorney or agent~~ and such person may present
211 testimony and other evidence. The property appraiser or his or
212 her authorized representatives may be represented by an attorney
213 in defending the property appraiser's assessment or opposing an



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214 exemption and may present testimony and other evidence. The
215 property appraiser, each petitioner, and all witnesses shall be
216 required, upon the request of either party, to testify under
217 oath as administered by the chairperson of the board. Hearings
218 shall be conducted in the manner prescribed by rules of the
219 department, which rules shall include the right of cross-
220 examination of any witness.

221 Section 9. Except as otherwise expressly provided in this
222 act, this act shall take effect July 1, 2015.

223
224 ===== T I T L E A M E N D M E N T =====

225 And the title is amended as follows:

226 Delete everything before the enacting clause
227 and insert:

228 A bill to be entitled
229 An act relating to value adjustment boards; amending
230 s. 192.0105, F.S.; conforming a provision to changes
231 made by the act; amending s. 193.122, F.S.;
232 establishing deadlines for value adjustment boards to
233 hear petitions and issue the second tax roll
234 certification; providing applicability; amending s.
235 194.011, F.S.; specifying procedures for filing
236 petitions to the value adjustment board; amending s.
237 194.014, F.S.; revising the interest rate upon which
238 unpaid and overpaid ad valorem taxes accrue; amending
239 s. 194.015, F.S.; authorizing the district school
240 board and county commission to audit certain expenses
241 of the value adjustment board; amending s. 194.032,
242 F.S.; requiring a property appraiser to notify a



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243 petitioner when property record cards are available
244 online; requiring a petitioner to show good cause to
245 reschedule a hearing related to an assessment;
246 limiting a petitioner to rescheduling a hearing twice;
247 amending s. 194.034, F.S.; revising the entities that
248 may represent a taxpayer before the value adjustment
249 board; providing effective dates.

By Senator Flores

37-00705-15

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1 A bill to be entitled
 2 An act relating to value adjustment boards; amending
 3 s. 192.0105, F.S.; conforming provisions to changes
 4 made by the act; amending s. 193.122, F.S.;
 5 establishing deadlines for value adjustment boards to
 6 complete final tax roll certifications; amending s.
 7 194.011, F.S.; specifying procedures for filing
 8 petitions to the value adjustment board; amending s.
 9 194.014, F.S.; revising the interest rate upon which
 10 unpaid and overpaid ad valorem taxes accrue; amending
 11 s. 194.015, F.S.; authorizing the district school
 12 board and district county commission to audit certain
 13 expenses of the value adjustment board; amending s.
 14 194.032, F.S.; requiring a property appraiser to
 15 notify a petitioner when property record cards are
 16 available online; requiring a petitioner to show good
 17 cause to reschedule a hearing related to an
 18 assessment; requiring county commissioners to address
 19 issues concerning assessment rolls by a time certain;
 20 amending s. 194.034, F.S.; revising the entities that
 21 may represent a taxpayer before the value adjustment
 22 board; creating s. 194.038, F.S.; requiring counties,
 23 under certain circumstances, to notify the Department
 24 of Revenue of petitions contesting tax assessments;
 25 requiring the department to conduct reviews of value
 26 adjustment board proceedings under certain
 27 circumstances; providing review procedures; requiring
 28 the department to publish review results; requiring
 29 notification to the Legislature of publication of

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30 review data and findings; requiring the department to
 31 find a value adjustment board to be in violation of
 32 the law if certain criteria are met; authorizing a
 33 property appraiser to file suit under certain
 34 circumstances; requiring the department to adopt
 35 rules; amending s. 195.002, F.S.; providing that the
 36 department has administrative review powers over value
 37 adjustment boards; providing an effective date.

39 Be It Enacted by the Legislature of the State of Florida:

40
 41 Section 1. Paragraph (f) of subsection (2) of section
 42 192.0105, Florida Statutes, is amended to read:
 43 192.0105 Taxpayer rights.—There is created a Florida
 44 Taxpayer's Bill of Rights for property taxes and assessments to
 45 guarantee that the rights, privacy, and property of the
 46 taxpayers of this state are adequately safeguarded and protected
 47 during tax levy, assessment, collection, and enforcement
 48 processes administered under the revenue laws of this state. The
 49 Taxpayer's Bill of Rights compiles, in one document, brief but
 50 comprehensive statements that summarize the rights and
 51 obligations of the property appraisers, tax collectors, clerks
 52 of the court, local governing boards, the Department of Revenue,
 53 and taxpayers. Additional rights afforded to payors of taxes and
 54 assessments imposed under the revenue laws of this state are
 55 provided in s. 213.015. The rights afforded taxpayers to assure
 56 that their privacy and property are safeguarded and protected
 57 during tax levy, assessment, and collection are available only
 58 insofar as they are implemented in other parts of the Florida

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59 Statutes or rules of the Department of Revenue. The rights so
60 guaranteed to state taxpayers in the Florida Statutes and the
61 departmental rules include:

62 (2) THE RIGHT TO DUE PROCESS.—

63 (f) The right, in value adjustment board proceedings, to
64 have all evidence presented and considered at a public hearing
65 at the scheduled time, to be represented by a person specified
66 in s. 194.034(1)(a) an attorney or agent, to have witnesses
67 sworn and cross-examined, and to examine property appraisers or
68 evaluators employed by the board who present testimony (see ss.
69 194.034(1)(a) and (c) and (4), and 194.035(2)).

70 Section 2. Subsection (1) of section 193.122, Florida
71 Statutes, is amended to read:

72 193.122 Certificates of value adjustment board and property
73 appraiser; extensions on the assessment rolls.—

74 (1) The value adjustment board shall certify each
75 assessment roll upon order of the board of county commissioners
76 pursuant to s. 197.323, if applicable, and again after all
77 hearings required by s. 194.032 have been held. These
78 certificates shall be attached to each roll as required by the
79 Department of Revenue. The value adjustment board must complete
80 the certification and submit each final assessment roll to the
81 property appraiser by June 1 following the tax roll year.

82 Section 3. Subsection (3) of section 194.011, Florida
83 Statutes, is amended to read:

84 194.011 Assessment notice; objections to assessments.—

85 (3) A petition to the value adjustment board must be in
86 substantially the form prescribed by the department.
87 Notwithstanding s. 195.022, a county officer may not refuse to

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88 accept a form provided by the department for this purpose if the
89 taxpayer chooses to use it. A petition to the value adjustment
90 board must be signed by the taxpayer or be accompanied by the
91 taxpayer's written authorization for representation by a person
92 specified in s. 194.034(1)(a). A written authorization is valid
93 for 1 tax year, and a new written authorization by the taxpayer
94 shall be required for each subsequent tax year. A petition shall
95 also describe the property by parcel number and shall be filed
96 as follows:

97 (a) The property appraiser shall have available and shall
98 distribute forms prescribed by the Department of Revenue on
99 which the petition shall be made. Such petition shall be sworn
100 to by the petitioner.

101 (b) The completed petition shall be filed with the clerk of
102 the value adjustment board of the county, who shall acknowledge
103 receipt thereof and promptly furnish a copy thereof to the
104 property appraiser.

105 (c) The petition shall state the approximate time
106 anticipated by the taxpayer to present and argue his or her
107 petition before the board.

108 (d) The petition may be filed, as to valuation issues, at
109 any time during the taxable year on or before the 25th day
110 following the mailing of notice by the property appraiser as
111 provided in subsection (1). With respect to an issue involving
112 the denial of an exemption, an agricultural or high-water
113 recharge classification application, an application for
114 classification as historic property used for commercial or
115 certain nonprofit purposes, or a deferral, the petition must be
116 filed at any time during the taxable year on or before the 30th

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117 day following the mailing of the notice by the property
 118 appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173,
 119 or s. 196.193 or notice by the tax collector under s. 197.2425.

120 (e) A condominium association, cooperative association, or
 121 any homeowners' association as defined in s. 723.075, with
 122 approval of its board of administration or directors, may file
 123 with the value adjustment board a single joint petition on
 124 behalf of any association members who own parcels of property
 125 which the property appraiser determines are substantially
 126 similar with respect to location, proximity to amenities, number
 127 of rooms, living area, and condition. The condominium
 128 association, cooperative association, or homeowners' association
 129 as defined in s. 723.075 shall provide the unit owners with
 130 notice of its intent to petition the value adjustment board and
 131 shall provide at least 20 days for a unit owner to elect, in
 132 writing, that his or her unit not be included in the petition.

133 (f) An owner of contiguous, undeveloped parcels may file
 134 with the value adjustment board a single joint petition if the
 135 property appraiser determines such parcels are substantially
 136 similar in nature.

137 (g) The individual, agent, or legal entity that signs the
 138 petition becomes an agent of the taxpayer for the purpose of
 139 serving process to obtain personal jurisdiction over the
 140 taxpayer for the entire value adjustment board proceedings,
 141 including any appeals of a board decision by the property
 142 appraiser pursuant to s. 194.036.

143 Section 4. Subsection (2) of section 194.014, Florida
 144 Statutes, is amended to read:

145 194.014 Partial payment of ad valorem taxes; proceedings

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146 before value adjustment board.—

147 (2) If the value adjustment board determines that the
 148 petitioner owes ad valorem taxes in excess of the amount paid,
 149 the unpaid amount accrues interest at an annual percentage rate
 150 equal to the prime rate as published in the Wall Street Journal
 151 on July 1 of the tax roll ~~the rate of 12 percent per year,~~
 152 beginning on ~~from~~ the date the taxes became delinquent pursuant
 153 to s. 197.333 until the unpaid amount is paid. If the value
 154 adjustment board determines that a refund is due, the overpaid
 155 amount accrues interest at an annual percentage rate equal to
 156 the prime rate as published in the Wall Street Journal on July 1
 157 of the tax roll ~~the rate of 12 percent per year,~~ beginning on
 158 ~~from~~ the date the taxes became delinquent pursuant to s. 197.333
 159 until a refund is paid. Interest does not accrue on amounts paid
 160 in excess of 100 percent of the current taxes due as provided on
 161 the tax notice issued pursuant to s. 197.322.

162 Section 5. Section 194.015, Florida Statutes, is amended to
 163 read:

164 194.015 Value adjustment board.—There is hereby created a
 165 value adjustment board for each county, which shall consist of
 166 two members of the governing body of the county as elected from
 167 the membership of the board of said governing body, one of whom
 168 shall be elected chairperson, and one member of the school board
 169 as elected from the membership of the school board, and two
 170 citizen members, one of whom shall be appointed by the governing
 171 body of the county and must own homestead property within the
 172 county and one of whom must be appointed by the school board and
 173 must own a business occupying commercial space located within
 174 the school district. A citizen member may not be a member or an

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175 employee of any taxing authority, and may not be a person who
 176 represents property owners in any administrative or judicial
 177 review of property taxes. The members of the board may be
 178 temporarily replaced by other members of the respective boards
 179 on appointment by their respective chairpersons. Any three
 180 members shall constitute a quorum of the board, except that each
 181 quorum must include at least one member of said governing board,
 182 at least one member of the school board, and at least one
 183 citizen member and no meeting of the board shall take place
 184 unless a quorum is present. Members of the board may receive
 185 such per diem compensation as is allowed by law for state
 186 employees if both bodies elect to allow such compensation. The
 187 clerk of the governing body of the county shall be the clerk of
 188 the value adjustment board. The board shall appoint private
 189 counsel who has practiced law for over 5 years and who shall
 190 receive such compensation as may be established by the board.
 191 The private counsel may not represent the property appraiser,
 192 the tax collector, any taxing authority, or any property owner
 193 in any administrative or judicial review of property taxes. No
 194 meeting of the board shall take place unless counsel to the
 195 board is present. Two-fifths of the expenses of the board shall
 196 be borne by the district school board and three-fifths by the
 197 district county commission. The district school board and
 198 district county commission may audit the expenses related to the
 199 value adjustment board process.

200 Section 6. Paragraph (a) of subsection (2) of section
 201 194.032, Florida Statutes, is amended, and subsection (4) is
 202 added to that section, to read:

203 194.032 Hearing purposes; timetable.-

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204 (2) (a) The clerk of the governing body of the county shall
 205 prepare a schedule of appearances before the board based on
 206 petitions timely filed with him or her. The clerk shall notify
 207 each petitioner of the scheduled time of his or her appearance
 208 at least 25 calendar days before the day of the scheduled
 209 appearance. The notice must indicate whether the petition has
 210 been scheduled to be heard at a particular time or during a
 211 block of time. If the petition has been scheduled to be heard
 212 within a block of time, the beginning and ending of that block
 213 of time must be indicated on the notice; however, as provided in
 214 paragraph (b), a petitioner may not be required to wait for more
 215 than a reasonable time, not to exceed 2 hours, after the
 216 beginning of the block of time. If the petitioner checked the
 217 appropriate box on the petition form to request a copy of the
 218 property record card containing relevant information used in
 219 computing the current assessment, the property appraiser must
 220 provide the copy to the petitioner upon receipt of the petition
 221 from the clerk regardless of whether the petitioner initiates
 222 evidence exchange, unless the property record card is available
 223 online from the property appraiser, in which case the property
 224 appraiser must notify the petitioner that the property record
 225 card is available online. Upon receipt of the notice, the
 226 petitioner, for good cause, may reschedule the hearing a single
 227 time by submitting to the clerk a written request to reschedule,
 228 at least 5 calendar days before the day of the originally
 229 scheduled hearing.

230 (4) Unless the board of county commissioners extends the
 231 assessment roll as set forth in s. 197.323, the board must hear
 232 all petitions, complaints, appeals, and disputes and must submit

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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233 the certified assessment roll as required under s. 193.122 to
 234 the property appraiser by June 1 annually.

235 Section 7. Paragraph (a) of subsection (1) of section
 236 194.034, Florida Statutes, is amended to read:

237 194.034 Hearing procedures; rules.—

238 (1) (a) Petitioners before the board may be represented by a
 239 corporate representative of the taxpayer, an attorney, a
 240 licensed property appraiser, a licensed realtor, a certified
 241 public accountant, or a certified tax specialist retained by the
 242 taxpayer ~~an attorney or agent~~ and may present testimony and
 243 other evidence. The property appraiser or his or her authorized
 244 representatives may be represented by an attorney in defending
 245 the property appraiser's assessment or opposing an exemption and
 246 may present testimony and other evidence. The property
 247 appraiser, each petitioner, and all witnesses shall be required,
 248 upon the request of either party, to testify under oath as
 249 administered by the chairperson of the board. Hearings shall be
 250 conducted in the manner prescribed by rules of the department,
 251 which rules shall include the right of cross-examination of any
 252 witness.

253 Section 8. Section 194.038, Florida Statutes, is created to
 254 read:

255 194.038 Review of value adjustment board proceedings.—

256 (1) A county that receives 10,000 or more petitions
 257 objecting to assessments under s. 194.011 in any one tax year,
 258 must notify the department. After notification, the department
 259 may conduct a review of the value adjustment board proceedings
 260 as follows:

261 (a) The department shall determine whether the values

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262 derived by the board comply with s. 193.011 and professionally
 263 accepted appraisal practices. A verbatim copy of the proceedings
 264 must be submitted to the department in the manner and form
 265 prescribed by the department following the final tax roll
 266 certification pursuant to s. 193.122.

267 (b) The department shall statistically sample petitions
 268 heard by the value adjustment board requesting a change in the
 269 assessment for each classification of property set forth in s.
 270 194.037(2).

271 (c) The department shall adhere to all the standards to
 272 which the value adjustment boards are required to adhere.

273 (d) The department and the value adjustment board shall
 274 cooperate in conducting these reviews, and each shall make
 275 available to the other all matters and records bearing on the
 276 reviews. The value adjustment board must provide the data
 277 requested by the department, including documentary evidence
 278 presented during the proceedings and written decisions rendered.

279 (2) The department shall complete its review no later than
 280 9 months after the department receives notification from the
 281 county pursuant to subsection (1). The department shall publish
 282 the results of each review on the department's website and shall
 283 include the following with regard to every parcel for which a
 284 petition was filed:

285 (a) The name of the owner.

286 (b) The address of the property.

287 (c) The identification number of the property as used by
 288 the value adjustment board clerk, such as the parcel
 289 identification number, strap number, alternate key number, or
 290 other number.

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291 (d) The name of the special magistrate who heard the
 292 petition, if applicable.

293 (e) The initial just value derived by the property
 294 appraiser.

295 (f) Any change made by the value adjustment board that
 296 increased or decreased the just value of the parcel.

297 (3) Upon publication of the data and findings, the
 298 department shall notify the committees of the Senate and of the
 299 House of Representatives having oversight responsibility for
 300 taxation, the appropriate value adjustment board, the property
 301 appraiser, and the county commission chair or corresponding
 302 official under a consolidated charter. Copies of the data and
 303 findings shall be provided upon request.

304 (4) The department shall find the value adjustment board to
 305 be in continuous violation of the intent of the law if the
 306 department, in its review, determines that less than 90 percent
 307 of the petitions randomly sampled comply with the criteria in s.
 308 193.011 and professionally accepted appraisal practices. A
 309 property appraiser may file suit in circuit court against the
 310 value adjustment board pursuant to s. 194.036(1)(c).

311 (5) The department shall adopt rules to administer this
 312 section.

313 Section 9. Subsection (1) of section 195.002, Florida
 314 Statutes, is amended to read:

315 195.002 Supervision by Department of Revenue.—

316 (1) The Department of Revenue shall have general
 317 supervision of:

318 (a) The assessment and valuation of property so that all
 319 property will be placed on the tax rolls and shall be valued

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320 according to its just valuation, as required by the
 321 constitution.

322 (b) Administrative review of value adjustment boards.

323 ~~(c) It shall also have supervision over Tax collection and~~
 324 ~~all other aspects of the administration of such taxes.~~

325
 326 The supervision of the department shall consist primarily of
 327 aiding and assisting county officers and value adjustment boards
 328 in the assessing, reviewing, and collection functions, with
 329 particular emphasis on the more technical aspects. In this
 330 regard, the department shall conduct schools to upgrade
 331 assessment skills of both state and local assessment personnel.

332 Section 10. This act shall take effect July 1, 2015.

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The Florida Senate

Committee Agenda Request

To: Senator Dorothy L. Hukill, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: March 18, 2015

I respectfully request that **Senate Bill #972**, relating to Value Adjustment Boards, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15 Meeting Date

972

Bill Number (if applicable)

597720

Amendment Barcode (if applicable)

Topic Value Adjustment Board

Name Eva M. Regueira

Job Title Director, Intergovernmental Affairs

Address 1450 NE 2nd Ave., Suite 931

Phone 305 995-1497

Street

Miami, FL 33132

City

State

Zip

Email emregueira@dadeschool.net

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Miami-Dade County Public Schools

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15 Meeting Date

972

Bill Number (if applicable)

Topic VAB

Amendment Barcode (if applicable)

Name Mario Bailey

Job Title Gov relations Consultant

Address 2700 N. Miami Ave Apt 211

Phone

Street

Miami FL 33127

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing Miami-Dade County Public Schools

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15 Meeting Date

972

Bill Number (if applicable)

Topic VALUE ADJUSTMENT BOARD

Amendment Barcode (if applicable)

Name John Sullivan

Job Title CONSULTANT

Address 1701 Prudential Drive

Phone

Street

Jacksonville, FL 32207

Email john@floridaeducationpolicy.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing DUVAL COUNTY PUBLIC SCHOOLS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-30-15 Meeting Date

972

Bill Number (if applicable)

Topic VALUE ADJUSTMENT BOARD

Amendment Barcode (if applicable)

Name MIAMI-DADE COUNTY MAYOR CARLOS GIMENEZ

Job Title

Address 111 NW 1st St 2810

Phone 305-375-4291

Street

MIAMI 33128

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

3-30-15

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

972

Bill Number (if applicable)

Meeting Date

Topic

Amendment Barcode (if applicable)

Name JESS McCARDY

Job Title ASS'T COUNTY ATTORNEY

Address 111 NW 1st St 2810

Phone 305-979-7110

Street MIAMI 33128

Email JMM2@MIAMI.DDF.GA

City MIAMI State FL Zip 33128

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

3/30/15

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 972

Bill Number (if applicable)

Meeting Date

Topic

Amendment Barcode (if applicable)

Name Loren Levy

Job Title General Counsel, Property Appraisers' Assn of Fla.

Address 1828 Piggins Rd

Phone 850-219-0220

Street Tallahassee FL 32308

Email levy.lawfirm@comcast.net

City Tallahassee State FL Zip 32308

Speaking: [X] For [] Against [] Information As amended

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15
Meeting Date

SB 972
Bill Number (if applicable)

Topic VALUE ADJUSTMENT BOARD

Amendment Barcode (if applicable)

Name TOM CERRA

Job Title _____

Address 9737 NW 41st #359

Phone 305 513 9995

Street MIAMI FL 33178
City State Zip

Email TOMCERRA@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing GREATER FL. CONSORTIUM OF SCHOOL BOARDS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30
Meeting Date

972
Bill Number (if applicable)

Topic VALUE ADJUSTMENT BOARD

Amendment Barcode (if applicable)

Name DIANA RAG-BEER

Job Title DIRECTOR, PUBLIC POLICY

Address 3150 SW 3RD AVE

Phone 305 571 5700

Street MIAMI FL 33129
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing THE CHILDREN'S TRUST

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15

Meeting Date

972

Bill Number (if applicable)

Topic Value Adjustment Boards

Amendment Barcode (if applicable)

Name Mike Hickox

Job Title Nassau County Property Appraiser

Address 96135 Nassau Place

Phone 904/491-7301

Street Yulee, FL 32097

Email mhickox@nassaufla.com

Speaking: For [] Against [x] Information []

Waive Speaking: In Support [] Against [] (The Chair will read this information into the record.)

Representing Florida Association of Property Appraisers

Appearing at request of Chair: Yes [] No [x]

Lobbyist registered with Legislature: Yes [] No [x]

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 980

INTRODUCER: Finance and Tax Committee; Commerce and Tourism Committee; and Senator Soto

SUBJECT: Defense Contracting

DATE: March 31, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Siples</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 980 authorizes a defense industry prime contractor to reduce its net income subject to tax in Florida by an amount equal to four percent of payments made under certain subcontracts awarded to a Florida small business subcontractor. Each prime contractor is limited to \$125 million in subcontract awards per calendar year and the entire program is limited to \$1.25 billion in subcontract awards per calendar year.

The Revenue Estimating Conference has not reviewed the impact of the bill. Staff estimates that the bill will reduce General Revenue receipts by \$2.25 million annually.

The bill is effective July 1, 2015.

II. Present Situation:

Florida's Defense Industry

Florida is home to three of 10 unified combatant commands and hosts two of only four Navy deep-water ports in the country with adjacent airfields, the military's only space launch facility on the east coast, the Marine Corps' only maritime repositioning facility, and one of only three Navy Fleet Readiness Centers. The state also hosts several critical research, development, testing and evaluation centers. In addition, the Joint Gulf Range Complex connects test and training ranges that extend from Key West to Northwest Florida and across the eastern Gulf of Mexico,

and encompasses 180,000 square miles of Department of Defense-controlled airspace.¹ Defense spending in Florida was directly or indirectly responsible for \$73.4 billion, or 9.4 percent, of gross state product in 2011.² In 2011, Florida businesses generated \$13.6 billion in U.S. Department of Defense (DoD) contract awards, ranking the state fifth in the nation.³ Total defense spending also accounts for more than 758,000 jobs around the state.⁴

According to the federal government, 61,597 contracts have been awarded to prime contractors by the DoD and the National Aeronautics and Space Administration for work done in the State of Florida for federal fiscal years 2014 and 2015.⁵ Combined, these contracts have a total value of approximately \$11.8 billion. There have been almost 2,600 subcontracts awarded through those 61,597 contracts, valued at more than \$1.8 billion.⁶

Federal Contracting Overview

The typical federal procurement process involves an agency identifying the goods and services it needs, determining the most appropriate method for purchasing those items, and carrying out an acquisition process. Under most procurement processes, an agency posts a solicitation on the Federal Business Opportunities website. Interested businesses prepare their offers in response to the solicitation, and agency personnel evaluate the offers. To be eligible to compete for government contracts, a business must obtain a Data Universal Numbering System number and register with the System for Award Management. Many agencies provide assistance and services to potential and existing federal contractors.

Businesses may also serve as subcontractors for other businesses (known as prime contractors) that have been awarded federal contracts. Most federal agencies typically release information on their websites listing prime contractors that have been awarded federal contracts. Other agencies, including the General Services Administration, Department of Homeland Security, and Small Business Administration provide more specific information regarding subcontracting opportunities with prime contractors on their websites.⁷

¹ Enterprise Florida, Inc. (EFI), *Florida Defense Factbook*, (Jan. 2013) available at <http://www.enterpriseflorida.com/wp-content/uploads/Factbook-20133.pdf> (last visited Mar. 24, 2015).

² EFI, *Florida Defense Industry Economic Impact Analysis* (Jan. 2013) available at <http://www.enterpriseflorida.com/wp-content/uploads/Haas-Study-20131.pdf> (last visited Mar. 24, 2015).

³ EFI, *Defense and Homeland Security*, available at <http://www.enterpriseflorida.com/wp-content/uploads/brief-defense-homeland-security-florida.pdf> (last visited Mar. 24, 2015).

⁴ EFI, *Florida Defense Factbook*. Direct employment includes 61,189 military personnel, 24,705 civilian personnel, and 12,449 National Guard personnel.

⁵ United States Office of Management and Budget, USASpending.gov (information may be obtained by using search criteria for Department of Defense and National Aerospace and Space Administration, prime contracts, performed in Florida, and by fiscal years 2014 and 2015), available at <http://usaspending.gov/> (last visited Mar. 24, 2015). Results change daily as new contracts are added.

⁶ United States Office of Management and Budget, USASpending.gov (information may be obtained by using search criteria for Department of Defense, subaward contracts, performed in Florida, and by fiscal years 2014 and 2015), available at <http://usaspending.gov/> (last visited Mar. 24, 2015). Results change daily as new contracts are added.

⁷ L. Elaine Halchin, Congressional Research Service, *Overview of the Federal Procurement Process and Resources*, (Sept. 11, 2012) available at <https://www.fas.org/sgp/crs/misc/RS22536.pdf> (last visited Mar. 24, 2015).

Corporate Income Tax in Florida

Florida imposes a 5.5 percent income tax on corporations doing business in Florida.⁸ The tax is generally referred to as the “corporate income tax” and is imposed on a taxpayer’s “net income.”⁹ Net income is determined by using the following process:

- Determine the taxpayer’s taxable income on its federal return;
- Make certain statutory adjustments (additions and subtractions);
- Determine Florida’s portion of the taxpayer’s total income (apportionment); and
- Subtract Florida’s statutory exemption, which is currently \$50,000.

A taxpayer’s corporate income tax liability is determined by multiplying the taxpayer’s net income by 5.5 percent.¹⁰

Florida provides several incentives that reduce the amount of corporate income tax owed.¹¹ Generally, these incentives are granted in the form of tax credits, which are applied after the taxpayer’s corporate income tax liability is determined through the process outlined above. In some instances, Florida grants incentives in the form of alternative apportionment methods.¹²

III. Effect of Proposed Changes:

Section 1 creates s. 288.1046, F.S., the Defense Works in Florida Incentive. The incentive allows certain contractors to reduce their net income by an amount equal to four percent of the value of subcontracts awarded to certain subcontractors.

Requirements to Qualify for the Defense Works in Florida Incentive

Prime Contractor

The bill requires that the prime contractor be a business entity operating in Florida that is awarded a contract directly from the federal government.

Only contracts that include “qualified defense work” qualify for the incentive. Qualified defense work is defined as a contract involving manufacturing, engineering, construction, distribution, research, development, or other activities related to equipment, supplies, technology, or other goods or services that directly or indirectly support the United States Armed Forces or that can be reasonably determined to support national security, including space-related activities.

Subcontractor

The bill requires the subcontractor to have its primary place of business in Florida, have 250 employees or fewer at the time the subcontract is awarded, and have no subsidiary or affiliate relationship to the prime contractor.

⁸ Section 220.11, F.S.

⁹ See s. 220.12, F.S.

¹⁰ The tax rate can be 3.3 percent in some limited situations due to the Alternative Minimum Tax. Section 220.11(3), F.S.

¹¹ See generally ss. 220.153 – 220.196, F.S.

¹² See s. 220.153, F.S.

Subcontract

The incentive is only available for subcontracts for “qualified defense work” worth more than \$250,000 and executed after July 1, 2015.

Claiming the Defense Work in Florida Incentive

The bill provides that the prime contractor may claim the incentive by applying to the Department of Economic Opportunity (DEO). The prime contractor may claim more than one qualified subcontract; however, each subcontract requires a separate application. The bill authorizes the DEO to establish processes for application approval, appeal, and accountability, as necessary. The DEO is also authorized to consult with Enterprise Florida, Inc., and the Florida Defense Support Task Force.

Within 10 days of certification, the DEO must provide a letter of certification to the applicant and a copy of the letter to the Department of Revenue. For multi-year contracts, the DEO must certify the full amount of the award in the calendar year the contract was awarded and the Florida prime contractor may claim the incentive in the taxable year in which the payment is made to the Florida small business subcontractor.

The bill allows the prime contractor to claim the incentive in the taxable years beginning on or after January 1, 2016. The prime contractor can take the subtraction in the taxable years in which payments are made to the subcontractor.

Limitations on Certifications by the DEO

The bill limits each prime contractor to \$125 million in aggregate awards.

The maximum amount of certifications the DEO may certify in a calendar year for all contractors is \$1.25 billion in aggregate awards.

Section 2 amends s. 220.13(b)(1), F.S., to include the four percent subtraction as an allowable subtraction in the computation of adjusted federal income used in the calculation of Florida corporate tax liability.

Section 3 provides an effective date of July 1, 2015.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conference has not reviewed the impact of this bill. Staff estimates that the bill will reduce General Revenue Fund receipts by \$2.25 million in Fiscal Year 2015-2016 and future years.¹³

B. Private Sector Impact:

The bill may have a positive fiscal impact on defense industry prime contractors that will be able to reduce corporate tax liability and may encourage Florida prime contractors to award subcontracts to small businesses within Florida.

C. Government Sector Impact:

The Department of Revenue indicates that there will be an insignificant fiscal impact.¹⁴

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

The bill grants rulemaking authority to the DEO and the Department of Revenue to administer the provisions of the bill.

VIII. **Statutes Affected:**

This bill substantially amends section 220.13 of the Florida Statutes.

This bill creates section 288.1046 of the Florida Statutes.

IX. **Additional Information:**

A. Committee Substitute – Statement of Changes:

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

CS/CS by Finance and Tax on March 30, 2015:

- Reduces the limit of each prime contractors' qualifying subcontract awards from \$250 million to \$125 million per year.

¹³ Revenue Estimating Conference Impact Conference Results, *House Bill 529* (Feb. 18, 2015) available at <http://edr.state.fl.us/content/conferences/revenueimpact/archives/2015/pdf/impact0220.pdf> (last visited Mar. 24, 2015).

¹⁴ Florida Department of Revenue, *Senate Bill 980 Fiscal Analysis* (Mar. 2, 2015) (on file with the Senate Committee on Commerce and Tourism).

- Reduces the total amount of annual subcontract awards under the program from \$2.5 billion to \$1.25 billion per year.

CS by Commerce and Tourism on March 16, 2015:

Clarifies that in the computation of the adjusted federal income for Florida corporate tax purposes, the subtraction of the four percent of a certified qualified subcontract award is to be divided by the apportionment factor.

B. Amendments:

None.



102974

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2015	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Soto) recommended the following:

Senate Amendment

Delete lines 77 - 80
and insert:
contractor applicant per calendar year, up to \$125 million in
aggregate qualified subcontract awards.

(c) The department may certify in total, per calendar year,
up to \$1.25 billion in aggregate qualified subcontract awards.

By the Committee on Commerce and Tourism; and Senator Soto

577-02336-15

2015980c1

1 A bill to be entitled
 2 An act relating to defense contracting; creating s.
 3 288.1046, F.S.; establishing the Defense Works in
 4 Florida Incentive; providing definitions; authorizing
 5 a Florida prime contractor to apply to the Department
 6 of Economic Opportunity to certify that it may reduce
 7 its computation of adjusted federal income by a
 8 specified amount; providing application requirements
 9 and procedures; providing caps for the aggregate
 10 amount of qualified subcontract awards that may be
 11 certified per calendar year; authorizing the
 12 Department of Economic Opportunity and the Department
 13 of Revenue to adopt rules; amending s. 220.13, F.S.;
 14 revising the definition of the term "adjusted federal
 15 income" to provide for a reduction in taxable income
 16 equal to a specified amount of qualified subcontract
 17 awards certified by the Department of Economic
 18 Opportunity; providing an effective date.

19 Be It Enacted by the Legislature of the State of Florida:

20 Section 1. Section 288.1046, Florida Statutes, is created
 21 to read:

22 288.1046 Defense Works in Florida Incentive.-

23 (1) As used in this section, the term:

24 (a) "Florida prime contractor" means a business entity
 25 operating in the state that is awarded a prime contract.

26 (b) "Florida small business subcontractor" means a business
 27 entity that:

28 Page 1 of 6

29 CODING: Words ~~stricken~~ are deletions; words underlined are additions.

577-02336-15

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30 1. Maintains its primary place of business in the state;
 31 2. Has 250 or fewer employees at the time a qualified
 32 subcontract award is made;
 33 3. Is awarded a subcontract from a Florida prime
 34 contractor; and
 35 4. Has no subsidiary or affiliate business relationship to
 36 the prime contractor making the award.
 37 (c) "Prime contract" means a contract that is awarded
 38 directly from the Federal Government.
 39 (d) "Qualified defense work" means a prime contract awarded
 40 for manufacturing, engineering, construction, distribution,
 41 research, development, or other activities related to equipment,
 42 supplies, technology, or other goods or services that directly
 43 or indirectly support the United States Armed Forces or that can
 44 be reasonably determined to support national security, including
 45 space-related activities.
 46 (e) "Qualified subcontract award" means qualified defense
 47 work, in part or in whole, subcontracted from a Florida prime
 48 contractor to a Florida small business subcontractor, which is
 49 executed in the state and valued at more than \$250,000. The term
 50 does not include subcontracts executed before July 1, 2015.
 51 (2) A Florida prime contractor may apply to the department
 52 to certify that it may reduce its computation of adjusted
 53 federal income under s. 220.13 by 4 percent of the qualified
 54 subcontract award, divided by the apportionment factor as
 55 defined in s. 220.15, if such prime contractor:
 56 (a) Is subject to chapter 220;
 57 (b) Is awarded qualified defense work; and
 58 (c) Makes a qualified subcontract award.

Page 2 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

577-02336-15

2015980c1

59 (3) A Florida prime contractor may reduce its adjusted
 60 federal income under subsection (2) only for taxable years
 61 beginning on or after January 1, 2016, and must apply separately
 62 to the department for each qualified subcontract award and
 63 provide the department required documentation, including, but
 64 not limited to, the award application and copies of contracts,
 65 tax records, or employment records.

66 (4) The department may establish application, approval,
 67 appeal, and accountability processes as necessary. The
 68 department may consult with Enterprise Florida, Inc., and the
 69 Florida Defense Support Task Force as necessary to administer
 70 this section.

71 (a) Within 10 days after certifying a qualified subcontract
 72 award, the department shall provide:

73 1. A letter certifying the award to the applicant; and

74 2. A copy of the letter certifying the award to the
 75 Department of Revenue.

76 (b) The department may certify, for each Florida prime
 77 contractor applicant per calendar year, up to \$250 million in
 78 aggregate qualified subcontract awards.

79 (c) The department may certify in total, per calendar year,
 80 up to \$2.5 billion in aggregate qualified subcontract awards.

81 (d) For a multiyear qualified subcontract award, the
 82 department shall certify the full amount of the award under
 83 paragraphs (b) and (c) in the calendar year in which it was
 84 awarded.

85 (e) The Florida prime contractor may reduce its adjusted
 86 federal income under subsection (2) in the taxable years in
 87 which payments are made to the Florida small business

577-02336-15

2015980c1

88 subcontractor.

89 (5) The department and the Department of Revenue may adopt
 90 rules to administer this section.

91 Section 2. Paragraph (b) of subsection (1) of section
 92 220.13, Florida Statutes, is amended to read:

93 220.13 "Adjusted federal income" defined.—

94 (1) The term "adjusted federal income" means an amount
 95 equal to the taxpayer's taxable income as defined in subsection
 96 (2), or such taxable income of more than one taxpayer as
 97 provided in s. 220.131, for the taxable year, adjusted as
 98 follows:

99 (b) Subtractions.—

100 1. There shall be subtracted from such taxable income:

101 a. The net operating loss deduction allowable for federal
 102 income tax purposes under s. 172 of the Internal Revenue Code
 103 for the taxable year, except that any net operating loss that is
 104 transferred pursuant to s. 220.194(6) may not be deducted by the
 105 seller,

106 b. The net capital loss allowable for federal income tax
 107 purposes under s. 1212 of the Internal Revenue Code for the
 108 taxable year,

109 c. The excess charitable contribution deduction allowable
 110 for federal income tax purposes under s. 170(d)(2) of the
 111 Internal Revenue Code for the taxable year, and

112 d. The excess contributions deductions allowable for
 113 federal income tax purposes under s. 404 of the Internal Revenue
 114 Code for the taxable year.

115
 116 However, a net operating loss and a capital loss shall never be

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117 carried back as a deduction to a prior taxable year, but all
 118 deductions attributable to such losses shall be deemed net
 119 operating loss carryovers and capital loss carryovers,
 120 respectively, and treated in the same manner, to the same
 121 extent, and for the same time periods as are prescribed for such
 122 carryovers in ss. 172 and 1212, respectively, of the Internal
 123 Revenue Code.

124 2. There shall be subtracted from such taxable income any
 125 amount to the extent included therein the following:

126 a. Dividends treated as received from sources without the
 127 United States, as determined under s. 862 of the Internal
 128 Revenue Code.

129 b. All amounts included in taxable income under s. 78 or s.
 130 951 of the Internal Revenue Code.

131
 132 However, as to any amount subtracted under this subparagraph,
 133 there shall be added to such taxable income all expenses
 134 deducted on the taxpayer's return for the taxable year which are
 135 attributable, directly or indirectly, to such subtracted amount.
 136 Further, no amount shall be subtracted with respect to dividends
 137 paid or deemed paid by a Domestic International Sales
 138 Corporation.

139 3. In computing "adjusted federal income" for taxable years
 140 beginning after December 31, 1976, there shall be allowed as a
 141 deduction the amount of wages and salaries paid or incurred
 142 within this state for the taxable year for which no deduction is
 143 allowed pursuant to s. 280C(a) of the Internal Revenue Code
 144 (relating to credit for employment of certain new employees).

145 4. There shall be subtracted from such taxable income any

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146 amount of nonbusiness income included therein.

147 5. There shall be subtracted any amount of taxes of foreign
 148 countries allowable as credits for taxable years beginning on or
 149 after September 1, 1985, under s. 901 of the Internal Revenue
 150 Code to any corporation which derived less than 20 percent of
 151 its gross income or loss for its taxable year ended in 1984 from
 152 sources within the United States, as described in s.
 153 861(a)(2)(A) of the Internal Revenue Code, not including credits
 154 allowed under ss. 902 and 960 of the Internal Revenue Code,
 155 withholding taxes on dividends within the meaning of sub-
 156 subparagraph 2.a., and withholding taxes on royalties, interest,
 157 technical service fees, and capital gains.

158 6. There shall be subtracted from such taxable income 4
 159 percent of the amount of the qualified subcontract award
 160 certified by the Department of Economic Opportunity and paid to
 161 the subcontractor pursuant to s. 288.1046, divided by the
 162 apportionment factor as defined in s. 220.15.

163 ~~7.6-~~ Notwithstanding any other provision of this code,
 164 except with respect to amounts subtracted pursuant to
 165 subparagraphs 1. and 3., any increment of any apportionment
 166 factor which is directly related to an increment of gross
 167 receipts or income which is deducted, subtracted, or otherwise
 168 excluded in determining adjusted federal income shall be
 169 excluded from both the numerator and denominator of such
 170 apportionment factor. Further, all valuations made for
 171 apportionment factor purposes shall be made on a basis
 172 consistent with the taxpayer's method of accounting for federal
 173 income tax purposes.

174 Section 3. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Rules, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Environmental Preservation and Conservation
Finance and Tax
Judiciary

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DARREN SOTO

Democratic Caucus Rules Chair
14th District

March 24, 2015

The Honorable Dorothy Hukill
Committee on Finance and Tax
207 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Hukill,

I respectfully request that Senate Bill 980, Defense Contracting, be placed on the agenda as soon as possible. Senate Bill 980 establishes the Defense Works in Florida Incentive. This bill authorizes Florida prime contractors to reduce its adjusted federal income after applying to the Department of Economic Opportunity. Contractors must be awarded qualified defense work and make a qualified subcontract award. Senate Bill 980 aims to create Florida jobs by awarding prime contracts to Florida defense businesses.

Thank you for your consideration. Should you have any questions or concerns, please feel free to contact me at 850-487-5014.

Sincerely,

A handwritten signature in cursive script that reads "Darren M. Soto".

Darren M. Soto
State Senator, District 14

Cc: Jose Diez-Arguelles, Staff Director
Lynn Wells, Committee Administrative Assistant

REPLY TO:

- Kissimmee City Hall, 101 North Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (407) 846-5188
- 220 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 980
Bill Number (if applicable)

Meeting Date

Topic Defense Contracting

Amendment Barcode (if applicable)

Name JERRY SANSON

Job Title

Address PO Box 98

Phone 321-698-4400

Street

City COLOS State FL Zip 32923

Email FISHAWK@SBCOM

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing NORTHROP GRUMMAN CORPORATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15
Meeting Date

980
Bill Number (if applicable)

Topic Defense Contracting

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St

Phone 850-521-1235

Street

Tallahassee FL 32301

City State Zip

Email cjohnson@flchamber.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

APPEARANCE RECORD

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3/30/2015

Meeting Date

Topic _____

Bill Number 980
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15

Meeting Date

980

Bill Number (if applicable)

Topic Defense Contracting

Amendment Barcode (if applicable)

Name LOUIS ROTUNDO

Job Title _____

Address 302 Pinestraw Circle

Phone 407-699-9361

Street

Altamonte Springs FLORIDA 32714
City State Zip

Email LCR5002@aet.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Defense Contractors Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15

Meeting Date

980

Bill Number (if applicable)

Topic DEFENSE CONTRACTING

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title EXEC DIR

Address 1625 SUMMIT LAKE DR

Phone 402 2954

GALLAHUASE FL 32317

Email nancy@mafmg.com

Speaking: For Against Information

Waive Speaking: In Support Against

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15

Meeting Date

SB 980

Bill Number (if applicable)

Topic Defense Contracting

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St.

Phone 224-7173

Tallahassee FL 32301

Email bbevis@aif.com

Speaking: For Against Information

Waive Speaking: In Support Against

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting.

This form is part of the public record for this meeting.

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 7052

INTRODUCER: Finance and Tax Committee and Military and Veterans Affairs, Space, and Domestic Security Committee

SUBJECT: Ad Valorem Tax Exemption for Deployed Servicemembers

DATE: March 31, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Sanders</u>	<u>Ryon</u>		MS Submitted as Committee Bill
1.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
2.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7052 amends s. 196.173, F.S., to include new designated operations for which deployed servicemembers may qualify for an ad valorem tax exemption and to remove an operation for which the time to qualify for exemption has expired. A servicemember may receive the exemption on homestead property for the portion of the preceding calendar year that the servicemember was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of statutorily-identified military operations. The bill adds 11 military operations to the statutory list of operations and removes 1 expired operation.

The bill waives the normal March 1 application deadline for the exemption application for 2015 only. For 2015, it requires servicemembers to apply by June 1, 2015.

The Revenue Estimating Conference has determined that this bill will reduce local revenues by \$200,000 annually.

The bill is effective upon becoming law and first applies to ad valorem tax rolls for 2015.

II. Present Situation:

Ad Valorem Exemption for Deployed Servicemembers

Section 196.173, F.S., provides an additional ad valorem tax exemption for homestead property owned by a military servicemember¹ deployed outside of the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. The exemption is equal to the taxable value of the homestead of the servicemember on January 1 of the year in which the exemption is sought multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year and divided by the number of days in that year.²

Eligible Military Operations

The exemption is currently available to servicemembers who had a qualifying deployment in support of:

- Operation Noble Eagle, which began on September 15, 2001;
- Operation Enduring Freedom, which began on October 7, 2001;
- Operation Iraqi Freedom, which began on March 19, 2003, and ended on August 31, 2010;
- Operation New Dawn, which began September 1, 2010, and ended on December 15, 2011; or
- Operation Odyssey Dawn, which began on March 19, 2011, and ended on October 31, 2011.³

Annual Report of All Known and Unclassified Military Operations

By January 15 of each year, the Department of Military Affairs must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year.⁴

To the extent possible, the report must include:

- The official and common names of the military operations;
- The general location and purpose of each military operation;
- The date each military operation commenced; and
- The date each military operation terminated, unless the operation is ongoing.⁵

Exemption Application

A servicemember who seeks to claim the tax exemption must file an application for exemption with the property appraiser on or before March 1 of the year following the year of the qualifying deployment.⁶ The application for the exemption must be made on a form prescribed by the

¹ The term “servicemember” is defined as a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard. *See* s. 196.173(7), F.S.

² Section 196.173(4), F.S.

³ Section 196.173(2), F.S.

⁴ Section 196.173(3), F.S.

⁵ *Id.*

⁶ Section 196.173(5)(1), F.S.

Department of Revenue and furnished by the property appraiser.⁷ The servicemember must provide with the application:

- Proof of a qualifying deployment;
- The dates of the qualifying deployment; and
- Other information necessary to verify eligibility for and the amount of the exemption.⁸

The property appraiser must consider a servicemember's application for the exemption within 30 days after receipt of the application or within 30 days after receiving notice of the designation of qualifying deployments by the Legislature, whichever is later.⁹ If a servicemember's application is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision to the value adjustment board (VAB) along with the procedures for filing such appeal.¹⁰

III. Effect of Proposed Changes:

Section 1 amends s. 196.173, F.S., to add 11 unclassified military operations for which deployed servicemembers may qualify for the exemption. These 11 operations are identified in the statutorily required report submitted to the Legislature by the Department of Military Affairs¹¹ and includes the following operations:

- Operation Joint Guardian, which began on June 12, 1999;
- Operation Octave Shield, which began in 2000;
- Operation Trans-Sahara Counterterrorism Partnership, which began in June 2005;
- Operation Nomad Shadow, which began in 2007;
- Operation U.S. Airstrikes Al Qaeda in Somalia, which began in January 2007;
- Operation Objective Voice, which began in 2009;
- Operation Georgia Deployment Program, which began in August 2009;
- Operation Copper Dune, which began in 2010;
- Operation Observant Compass, which began in October 2011;
- Operation Juniper Shield, which began in 2013; and
- Operation Inherent Resolve, which began on August 8, 2014.

The bill removes Operation Iraqi Freedom from the list of qualifying operations because the time for claiming an exemption for the applicable tax rolls has expired.

Section 2 provides an exception to the March 1 application deadline in s. 196.173(5), F.S., for 2015 only. For 2015, servicemembers must apply by June 1, 2015.

The property appraiser or VAB may grant the exemption to an otherwise qualifying applicant who fails to meet the June 1 deadline if the applicant provides an application to the property appraiser or files a petition with the VAB on or before the 25th day following the mailing by the

⁷ *Id.*

⁸ *Id.*

⁹ Section 196.173(6), F.S.

¹⁰ Section 194.015, F.S.

¹¹ Report on file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee.

property appraiser of the notices required under s. 194.011(1), F.S., and demonstrates extenuating circumstances that warrant granting the exemption.

The bill is effective upon becoming law and first applies to ad valorem tax rolls for 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that SB 7052 will reduce local governments' revenues by \$200,000 annually.¹²

B. Private Sector Impact:

If the bill becomes law, servicemembers deployed to one of the aforementioned military operations could receive property tax relief.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.173 of the Florida Statutes.
This bill creates an undesignated section of the Florida law.

¹² Revenue Estimating Conference, *Deployed Service Members Exemptions, Proposed Language*, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/pdf/page230-232.pdf> (last visited Mar. 3, 2015).

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on March 30, 2015:

The CS:

- Removes Operation Iraqi Freedom from the list of qualifying operations because the time for claiming an exemption for the applicable tax rolls has expired.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



769436

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2015	.	
	.	
	.	
	.	

The Committee on Finance and Tax (Altman) recommended the following:

Senate Amendment

Delete lines 30 - 31
and insert:

~~(c) Operation Iraqi Freedom, which began on March 19, 2003, and ended on August 31, 2010;~~

By the Committee on Military and Veterans Affairs, Space, and Domestic Security

583-02394-15

20157052__

A bill to be entitled

An act relating to an ad valorem tax exemption for deployed servicemembers; amending s. 196.173, F.S.; expanding the military operations that qualify a servicemember deployed in support of such an operation in the previous calendar year for an additional ad valorem tax exemption; providing an extended deadline and specifying procedures for filing an application for such tax exemption for a qualifying deployment during the 2014 calendar year; providing procedures to appeal a denial by a property appraiser of an application for such tax exemption; providing for retroactive applicability providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 196.173, Florida Statutes, is amended to read:

196.173 Exemption for deployed servicemembers.—

(2) The exemption is available to servicemembers who were deployed during the preceding calendar year on active duty outside the continental United States, Alaska, or Hawaii in support of any of the following operations:

(a) Operation Joint Guardian, which began on June 12, 1999.

(b) Operation Octave Shield, which began in 2000.

(c)~~(a)~~ Operation Noble Eagle, which began on September 15, 2001.~~†~~

(d)~~(b)~~ Operation Enduring Freedom, which began on October 7, 2001.~~†~~

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

583-02394-15

20157052__

(e)~~(e)~~ Operation Iraqi Freedom, which began on March 19, 2003, and ended on August 31, 2010.~~†~~

(f) Operation Trans-Sahara Counterterrorism Partnership, which began in June 2005.

(g) Operation Nomad Shadow, which began in 2007.

(h) Operation U.S. Airstrikes Al Qaeda in Somalia, which began in January 2007.

(i) Operation Objective Voice, which began in 2009.

(j) Operation Georgia Deployment Program, which began in August 2009.

(k) Operation Copper Dune, which began in 2010.

(l)~~(d)~~ Operation New Dawn, which began on September 1, 2010, and ended on December 15, 2011.~~†~~~~or~~

(m)~~(e)~~ Operation Odyssey Dawn, which began on March 19, 2011, and ended on October 31, 2011.

(n) Operation Observant Compass, which began in October 2011.

(o) Operation Juniper Shield, which began in 2013.

(p) Operation Inherent Resolve, which began on August 8, 2014.

The Department of Revenue shall notify all property appraisers and tax collectors in this state of the designated military operations.

Section 2. Application deadline for additional ad valorem tax exemption under s. 196.173, Florida Statutes, for 2014 qualifying deployments.—

(1) Notwithstanding the application deadline in s. 196.173(5), Florida Statutes, the deadline for an applicant to

Page 2 of 4

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583-02394-15

20157052__

59 file an application with the property appraiser for an
 60 additional ad valorem tax exemption for a qualifying deployment
 61 during the 2014 calendar year is June 1, 2015.

62 (2) If an application is not timely filed under subsection
 63 (1), a property appraiser may grant the exemption if:

64 (a) The applicant files an application for the exemption on
 65 or before the 25th day after the mailing by the property
 66 appraiser during the 2015 calendar year of the notice required
 67 under s. 194.011(1), Florida Statutes;

68 (b) The applicant is qualified for the exemption; and

69 (c) The applicant produces sufficient evidence, as
 70 determined by the property appraiser, which demonstrates that
 71 the applicant was unable to apply for the exemption in a timely
 72 manner or otherwise demonstrates extenuating circumstances that
 73 warrant granting the exemption.

74 (3) If the property appraiser denies an application under
 75 subsection (2), the applicant may file, pursuant to s.
 76 194.011(3), Florida Statutes, a petition with the value
 77 adjustment board which requests that the exemption be granted.
 78 Such petition must be filed on or before the 25th day after the
 79 mailing by the property appraiser during the 2015 calendar year
 80 of the notice required under s. 194.011(1), Florida Statutes.
 81 Notwithstanding s. 194.013, Florida Statutes, the eligible
 82 servicemember is not required to pay a filing fee for such
 83 petition. Upon reviewing the petition, the value adjustment
 84 board may grant the exemption if the applicant is qualified for
 85 the exemption and demonstrates extenuating circumstances, as
 86 determined by the board, that warrant granting the exemption.

87 Section 3. This act shall take effect upon becoming a law,

Page 3 of 4

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583-02394-15

20157052__

88 and first applies to ad valorem tax rolls for 2015.

Page 4 of 4

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APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15

Meeting Date

7052

Bill Number (if applicable)

Topic Ad Valorem Taxes

Amendment Barcode (if applicable)

Name Bill Helmsch

Job Title

Address 303 Johns Dr

Phone 850 251 3126

Tallahassee FL 32301

Email

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing [X] FW and American Legion

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/2015

Meeting Date

7052

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S

Phone 727/897-9291

St Petersburg FL 33705

Email justice2jesus@yahoo.com

Speaking: [] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7074

INTRODUCER: For consideration by the Finance and Tax Committee

SUBJECT: Tobacco Products other than Cigarettes or Cigars

DATE: March 27, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Fournier	Diez-Arguelles		Pre-meeting

I. Summary:

SPB 7074 makes changes to definitions in s. 210, 25, F.S., to clarify existing law concerning the tax on tobacco products other than cigarettes and cigars. It provides that the tax applies to the full price paid by a distributor to acquire tobacco products (including the federal excise tax paid by a domestic manufacturer) and to the federal excise tax on an imported product, if it is paid by the distributor. It amends the definition of “tobacco products” to clarify that products made in whole or in part from tobacco leaves for use in chewing, smoking, or sniffing are tobacco products. It defines “affiliate” to mean “a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor.”

The bill also provides that the amendment made to s. 210.25, F.S., clarifies existing law.

II. Present Situation:

Tobacco products other than cigarettes and cigars are taxed under Part II of ch. 210, F.S., enacted in 1985.¹ Tobacco products include:

- Loose tobacco suitable for smoking;
- Snuff;
- Snuff flour;
- Cavendish;
- Plug and twist tobacco;
- Fine cuts and other chewing tobaccos;
- Shorts;
- Refuse scraps;
- Clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing;

¹ Chapter 85-141, Laws of Fla.

- but “tobacco products” does not include cigarettes, as defined by s. 210.01(1), F.S., or cigars.²

These products are subject to a surcharge levied at the rate of 60 percent,³ and a tax levied at the rate of 25 percent,⁴ of the wholesale sales price. The surcharge and tax are levied upon any person engaged in business as a distributor⁵ of tobacco products at the time the distributor:

- Brings or causes to be brought into this state from without the state tobacco products for sale;
- Makes, manufactures, or fabricates tobacco products in this state for sale in this state; or
- Ships or transports tobacco products to retailers in this state, to be sold by those retailers.⁶

The surcharge and tax are administered by the Division of Alcoholic Beverages and Tobacco (division) of the Department of Business and Professional Regulation (DBPR), which licenses distributors⁷ and collects monthly tax returns.⁸ The division must notify a taxpayer of any tax deficiency, stating its intention to assess the amount due. The taxpayer may protest the proposed assessment and the division must hold a hearing on the protest and issue a final assessment for the amount found due.⁹

Revenue produced from the surcharge on tobacco products is deposited into the Health Care Trust Fund within the Agency for Health Care Administration.¹⁰ Revenue produced from the tax on tobacco products is deposited in the General Revenue Fund.¹¹ The estimate for total collections for fiscal Year 2015-2016 is \$100.5 million. The Health Care Trust Fund share is \$65.2 million and the General Revenue Fund share is \$35.2 million.

The surcharge and tax on tobacco products are based on the “wholesale sales price” which means “the established price for which a manufacturer sells a tobacco product to a distributor, exclusive of any diminution by volume or other discounts.”¹²

Legal Challenges to DBPR Administration of Tobacco Products Tax and Surcharge

The statutory scheme for determining the correct amount of tax and the products subject to tax has remained largely unchanged since the tax was enacted in 1985. The statutes worked well when the distribution chain of the product included a manufacturer, a distributor, a retailer, and the products for sale were all covered by the statutory definition. Since 1985, however, the

² Section 210.25(11), F.S.

³ Section 210.276(1), F.S.

⁴ Section 210.30(1), F.S.

⁵ “Distributor” means: (a) any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from outside the state any tobacco products for sale; (b) any person who makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (c) any person engaged in the business of selling tobacco outside this state who ships or transports tobacco products to retailers in this state to be sold by those retailers. (s. 210.25(4), F.S.)

⁶ Sections 210.276(1)(a),(b), and (c) and 210.30(1)(a),(b), and (c), F.S.

⁷ Section 210.45, F.S.

⁸ Section 210.55(1), F.S.

⁹ Section 210.55(2) and (3), F.S.

¹⁰ Section 210.276(7), F.S. This trust fund is subject to the General Revenue Service Charge s. 215.20(1), F.S.

¹¹ Section 210.70, F.S.

¹² Section 210.25(13), F.S.

industry has become more diverse. Additional products have come on the market and the supply chain often includes multiple transactions. These products and supply arrangements are not clearly addressed by existing statutory language, and DBPR has been challenged over tax assessments in these situations.

Definition of Wholesale Sales Price

In 2012, Micjo, Inc., a Florida-licensed distributor of tobacco products, challenged DBPR's interpretation of "wholesale sales price." Micjo purchased hookah tobacco from non-Florida importers who purchased the product from overseas manufacturers. These importers paid the federal excise taxes on the products as well as delivery costs, and provided invoices to Micjo that itemized these costs. Micjo paid Florida taxes on the price the importers paid the manufacturers for tobacco but not on the total invoice amount, because federal excise taxes and delivery costs were paid by the importer, not by the manufacturer. The Second DCA¹³ agreed with Micjo's position that the federal excise tax and delivery charges paid by the importer were not part of the wholesale sales price.

It is the division's position that the Micjo decision applies only to distributors of imported tobacco products, but other tobacco products distributors have challenged the division over tax assessments or refund requests related to what is included in the "wholesale sales price" of tobacco products, based on the Micjo decision. The division has also seen a change in the way tobacco product manufacturers prepare invoices, itemizing elements such as federal excise taxes and transportation costs that previously were included in the price of the product. These challenges, which seek to expand the Micjo ruling to domestic-source products, include requests for refunds of taxes paid on these separately-stated charges and could exceed \$200 million, in addition to recurring \$50 million annual reductions in excise tax revenue.

The Micjo ruling itself, although relatively small in its revenue impact, creates an unequal playing field between tobacco products manufactured outside the United States and those produced domestically, since domestic manufacturers must pay federal excise tax (included in the wholesale sales price) while these taxes must be paid by the importers of foreign-made products (and excluded from the wholesale sales price).

Definition of Tobacco Products

On February 24, 2015, an Administrative Law Judge issued a recommended order¹⁴ finding that "blunt wraps" are not taxable as tobacco products and set aside the division's assessment against a taxpayer for the excise taxes and surcharges that the Department alleged were due. "Blunt wraps" are used to wrap tobacco or other products for smoking, and are made from tobacco sweepings, cellulose, and glue or are punched out of whole tobacco leaves. They were not a commercial product in 1985 when the statutory definition of "tobacco products" was created, and the judge found that:

¹³ *Micjo, Inc. v. Department of Business and Professional Regulation*, 78 So. 3d. 124 (Fla. 2d. DCA 2012).

¹⁴ *Brandy's Products, Inc. v. Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco*, Case No. 14-3496 (Fla. DOAH 2015).

“DBPR’s interpretation of section 210.25(11), F.S., as including blunt wraps within the specialized definition of “tobacco products” is erroneous and unreasonably enlarges the taxing authority in contravention of the plain language of the statute.”¹⁵

The potential revenue impact of a final decision favoring the plaintiffs is a loss of \$3 million recurring and \$9 million in refunds. It also suggests that as new tobacco products are introduced into the market they may not be subject to the tax and surcharge unless they are specifically listed in the statute.

III. Effect of Proposed Changes:

Section 1 amends s. 210.25, F.S., to clarify the taxation of tobacco products other than cigarettes and cigars. It codifies the division’s current administration of these laws with respect to domestically-manufactured products, and provides that the wholesale sales price for imported products must include the federal excise tax regardless of who pays that tax. It amends the definition of tobacco products to include products that have been introduced to the market since the statute was originally enacted.

The bill redefines “wholesale sales price” as the total amount paid by the distributor to obtain tobacco products. It is defined as the sum of:

- The full price paid by the distributor to acquire the tobacco products, including of charges by the seller for the cost of materials, cost of labor and service, charge for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the distributor, exclusive of any diminution by volume or other discounts, including a discount extended to a distributor by an affiliate.
- The federal excise tax paid by the distributor on the tobacco products, if the tax is not included in the full price under paragraph (a).

The bill defines “affiliate” to mean “a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor.” This definition is needed to ensure that the price on which the tax is based is not diminished by a discount resulting from an affiliation between the distributor and another entity.

The bill amends the definition of tobacco products to clarify that “products, including wraps, made in whole or in part from tobacco leaves for use in chewing, smoking, or sniffing” are tobacco products.

Section 2 amends s. 951.22, F.S., to correct a cross-reference.

Section 3 provides that the amendment made to s. 210.25, F.S., clarifies existing law.

The effective date of the bill is July 1, 2015.

¹⁵ Id. p. 20.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

To the extent this bill clarifies the tobacco products tax statute consistent with the division's current administration of the tax on tobacco products it has no tax impact. For distributors that buy products manufactured overseas from out-of-state importers (as in *Micjo, Inc. v. Department of Business and Professional Regulation*) the tax will be higher, as it will include federal excise tax and other charges paid by the out-of-state importer.

B. Private Sector Impact:

This bill provides that distributors of tobacco products are taxed on the full price paid to acquire the tobacco product. This interpretation of "wholesale sales price" is the division's position as to the meaning of the term. For distributors operating under the same circumstances as Micjo, Inc., namely, buying products from an out-of-state importer, the bill will increase the tax due by including the federal excise tax in the wholesale sales price, creating parity with distributors buying domestic products.

C. Government Sector Impact:

By amending the definitions of "tobacco products" and "wholesale sales price" this bill may reduce litigation costs for the division. In the current fiscal year the division has spent \$61,080 for representation by the Attorney General's office in litigation related to issues this bill will clarify. Litigation of four ongoing cases is expected to cost approximately \$24,000 for each. Additional challenges have been filed.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 210.25, F.S.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



438334

LEGISLATIVE ACTION

Senate

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. .
. .
. .
. .

House

The Committee on Finance and Tax (Soto) recommended the following:

Senate Amendment (with title amendment)

Delete line 73

and insert:

Florida Statutes, is intended to amend existing law.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 4 - 8

and insert:



438334

11 defining the term "affiliate"; amending the
12 definitions of the terms "tobacco products" and
13 "wholesale sales price"; amending s. 951.22, F.S.;
14 conforming a cross-reference; providing that the act
15 is intended to amend existing law; providing an

FOR CONSIDERATION By the Committee on Finance and Tax

593-02847A-15

20157074pb

A bill to be entitled

An act relating to tobacco products other than cigarettes or cigars; amending s. 210.25, F.S.; defining the term "affiliate"; clarifying the definitions of the terms "tobacco products" and "wholesale sales price"; amending s. 951.22, F.S.; conforming a cross-reference; providing that the act is intended to clarify existing law; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (1) and (2) of section 210.25, Florida Statutes, are redesignated as subsections (2) and (3), respectively, a new subsection (1) is added to that section, present subsection (3) of that section is redesignated as subsection (5), present subsections (5) through (13) of that section are redesignated as subsections (6) through (14), respectively, and present subsections (11) and (13) of that section are amended, to read:

210.25 Definitions.—As used in this part:

(1) "Affiliate" means a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor.

(12)(11) "Tobacco products" means loose tobacco suitable for smoking; snuff; snuff flour; loose tobacco; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco;

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

593-02847A-15

20157074pb

and all other kinds and forms of products, including wraps, made in whole or in part from tobacco leaves for use tobacco prepared in such manner as to be suitable for chewing, smoking, or sniffing. The term, ~~but "tobacco products"~~ does not include cigarettes, as defined by s. 210.01(1), or cigars.

(14)(13) "Wholesale sales price" means the sum of paragraphs (a) and (b):

(a) The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, cost of labor and service, charge for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the established price for which a manufacturer sells a tobacco product to a distributor, exclusive of any diminution by volume or other discounts, including a discount provided to a distributor by an affiliate.

(b) The federal excise tax paid by the distributor on the tobacco products, if the tax is not included in the full price under paragraph (a).

Section 2. Subsection (1) of section 951.22, Florida Statutes, is amended to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby declared to be

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

593-02847A-15

20157074pb

59 contraband for the purposes of this act, to wit: Any written or
60 recorded communication; any currency or coin; any article of
61 food or clothing; any tobacco products as defined in s.
62 210.25~~(12)(11)~~; any cigarette as defined in s. 210.01(1); any
63 cigar; any intoxicating beverage or beverage which causes or may
64 cause an intoxicating effect; any narcotic, hypnotic, or
65 excitative drug or drug of any kind or nature, including nasal
66 inhalators, sleeping pills, barbiturates, and controlled
67 substances as defined in s. 893.02(4); any firearm or any
68 instrumentality customarily used or which is intended to be used
69 as a dangerous weapon; and any instrumentality of any nature
70 that may be or is intended to be used as an aid in effecting or
71 attempting to effect an escape from a county facility.

72 Section 3. The amendment made by this act to s. 210.25,
73 Florida Statutes, is intended to clarify existing law.

74 Section 4. This act shall take effect July 1, 2015.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/2015

Meeting Date

7074

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S

Phone 727/897-9291

Street

St Petersburg FL 33705

City

State

Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

SPB 7074

Bill Number (if applicable)

Topic OTP SPB 7074

Amendment Barcode (if applicable)

Name Beth Gosnell

Job Title _____

Address 110A So. Monroe St

Phone 850-443-3663

Street

Tal FL 32301

City

State

Zip

Email gosnell3@aol.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Assoc. of Wholesale Distributors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/15

Meeting Date

SPB 7074

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Michael Martinez

Job Title Party General Counsel

Address _____
Street

Phone 850-443-0539

City _____ State _____ Zip _____

Email Michael.martinez@myfloridalegislature.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing DBPR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: SB 401

Case:

Type:

Caption: Senate Finance and Tax Committee Judge:

Started: 3/30/2015 4:01:57 PM

Ends: 3/30/2015 5:54:12 PM

Length: 01:52:16

4:01:59 PM Sen. Abruzzo (Chair)
4:02:08 PM Roll Call
4:02:27 PM Sen. Abruzzo
4:02:33 PM CS/SB 268
4:02:41 PM Sen. Stargel
4:03:19 PM Am.177080
4:03:20 PM Sen. Abruzzo
4:03:30 PM Am. 477572
4:03:37 PM S. Am. 845292
4:03:46 PM Sen. Stargel
4:03:49 PM Sen. Abruzzo
4:04:04 PM Jennifer Green, Florida Attraction Association, (waives in support)
4:04:10 PM Melanie Becker, Director Government Affairs, Universal Orlando (waives in support)
4:04:17 PM Bill Helmich, VFW and American Legion (waives in support)
4:04:22 PM Richard Turner, General Council & V. P. Government Relations, Florida Restaurant & Lodging Association (waives against)
4:04:26 PM Larry Sellers, Partner, Dave & Bruster's (waives in support)
4:04:29 PM Michael Wolf, Florida Arcade and Bingo Association
4:08:50 PM Sen. Diaz de la Portilla
4:08:57 PM M. Wolf
4:09:00 PM Sen. Diaz de la Portilla
4:09:13 PM Bill Lupfer, Florida Attractions Association (waives in support)
4:09:21 PM Sen. Abruzzo
4:09:53 PM Sen. Stargel
4:10:18 PM Roll Call
4:10:30 PM Sen. Abruzzo
4:10:39 PM SB 404
4:10:45 PM Sen. Simpson
4:11:38 PM Sen.Soto
4:11:51 PM Sen. Simpson
4:13:23 PM Anthony DiMarco, EVP of Government Affairs, Florida Bankers Association
4:14:21 PM Sen. Soto
4:14:27 PM A. DiMarco
4:14:55 PM Sen. Soto
4:15:02 PM A. DiMarco
4:15:34 PM Amy Datz, Retired State Environmental Planner, Environmental Caucus of Florida
4:16:59 PM Brian Pitts, Trustee, Justice-2-Jesus
4:19:50 PM Paul Handerhan, Consultant, Florida Association for Insurance Reform
4:20:05 PM Sen. Abruzzo
4:20:12 PM Roll Call
4:20:32 PM Sen. Hukill
4:20:53 PM SB 544
4:20:55 PM Sen.Hukill
4:22:08 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
4:22:15 PM Christian Weiss, Executive Office of the Governor (waives in support)
4:22:20 PM Nancy Stephens, Executive Director, Manufacturers Association of Florida (waives in support)
4:22:26 PM Liz Castro, The Florida Beverage Association (waives in support)
4:22:33 PM Kurt Wenner, Vice President, Florida Tax Watch (waives in support)
4:22:40 PM John Ray, Executive Director, Florida Medical Manufacturers (waives in support)
4:22:44 PM Bill Wilson, Director of Legislative Affairs, DEO
4:22:58 PM Brian Pitts, Trustee, Justice-2-Jesus
4:25:56 PM Carolyn Johnson, Policy Director, Florida Chamber of Commerce (waives in support)

4:26:02 PM Jerry Sansom, Northrup Grumman Corporation (waives in support)
4:26:08 PM Jose Gonzalez, Region VP, Anneuser - Busch (waives in support)
4:26:19 PM Sen. Soto
4:26:44 PM Sen. Hukill
4:27:03 PM Roll Call
4:27:17 PM Sen. Abruzzo
4:27:21 PM Sen. Hukill (Chair)
4:27:30 PM Sen. Flores
4:27:43 PM SB 7052
4:27:51 PM Sen. Altman
4:29:14 PM Am. 769436
4:29:37 PM Sen. Hukill
4:29:47 PM Sen. Altman
4:30:00 PM Sen. Hukill
4:30:08 PM Bill Helmich, VFW and American Legion (waives in support)
4:30:19 PM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
4:30:23 PM Sen. Hukill
4:30:33 PM Sen. Altman
4:30:42 PM Roll Call
4:30:58 PM Sen. Hukill
4:31:09 PM CS/SB 668
4:31:15 PM Sen. Latvala
4:32:37 PM Sen. Hukill
4:32:58 PM Am 297852
4:33:40 PM Sen. Diaz de la Portilla
4:34:48 PM Sen. Latvala
4:35:05 PM Sen. Hukill
4:35:24 PM Lori Killinger, Palm Beach Firefighters (waives in support)
4:35:37 PM Sen. Latvala
4:35:46 PM Roll Call
4:36:01 PM Sen. Hukill
4:36:20 PM SB 722
4:36:23 PM Sen. Flores
4:37:53 PM Am. 797252
4:37:59 PM Sen. Flores
4:38:36 PM Sen. Soto
4:38:47 PM Sen. Flores
4:39:08 PM Sen. Hukill
4:39:26 PM Am. 682796
4:39:37 PM Sen. Flores
4:40:10 PM Sen. Soto
4:40:31 PM Sen. Flores
4:41:18 PM Sen. Margolis
4:42:08 PM Sen. Hukill
4:42:29 PM Am. 222322
4:42:36 PM Sen. Soto
4:43:39 PM Sen. Hukill
4:44:01 PM Sen. Flores
4:45:23 PM Sen. Margolis
4:46:05 PM Sen. Hukill
4:46:40 PM Sen. Soto
4:47:18 PM Roll Call
4:47:43 PM Sen. Hukill
4:48:03 PM David Daniel, United Airlines
4:49:32 PM Jen Gaviria, Government Consultant, Delta Airlines
4:50:53 PM Sen. Diaz de la Portilla
4:51:03 PM J. Gaviria
4:51:22 PM Keith Hanssen, Director of Airport Operations, Allegant Airlines
4:53:27 PM Sen. Hukill
4:53:31 PM K. Hanssen
4:53:54 PM Sen. Diaz de la Portilla
4:53:59 PM K. Hanssen

4:54:08 PM Sen. Diaz de la Portilla
4:54:51 PM K. Hanssen
4:55:20 PM Sen. Flores
4:55:42 PM Brian Pitts, Trustee, Justice-2-Jesus
4:58:21 PM Sherri Hull, Southwest Airlines
5:01:34 PM Stephen Shiver, Jet Blue Airways
5:03:29 PM Sen. Diaz de la Portilla
5:03:37 PM S. Shiver
5:04:39 PM Sen. Diaz de la Portilla
5:04:41 PM S. Shiver
5:04:48 PM Sen. Hukill
5:05:00 PM Sen Soto
5:05:45 PM Sen. Abruzzo
5:06:55 PM Sen. Flores
5:09:41 PM Roll Call
5:09:55 PM Sen. Hukill
5:10:00 PM Sen. Abruzzo
5:10:13 PM SB 972
5:10:21 PM Sen. Flores
5:11:17 PM Am. 597720
5:11:21 PM Sen. Flores
5:12:37 PM Sen. Hukill
5:12:55 PM Eva Regueira, Director, Intergovernmental Affairs, Miami-Dade County Public Schools (waives in support)
5:13:00 PM Sen. Hukill
5:13:25 PM Sen. Soto
5:13:36 PM Sen. Flores
5:14:12 PM Mike Hickox, Nassau County Property Appraiser, Florida Association of Property Appraisers
5:15:30 PM Sen. Flores
5:15:48 PM M. Hickox
5:16:01 PM Sen. Flores
5:16:34 PM M. Hickox
5:17:19 PM Sen. Abruzzo
5:17:31 PM M. Hickox
5:17:35 PM Sen. Abruzzo
5:17:35 PM M. Hickox
5:17:44 PM Sen. Abruzzo
5:18:00 PM Sen. Margolis
5:19:07 PM M. Hickox
5:19:43 PM Sen. Margolis
5:20:36 PM Sen. Soto
5:21:06 PM M. Hickox
5:21:42 PM Diana Ragbeer, Director, Public Policy, The Children's Trust (waives in support)
5:21:53 PM Tom Cerra, Greater Florida Consortium of School Boards (waives in support)
5:22:16 PM Loren Levy, General Counsel, Property Appraisers' Association of Florida
5:23:55 PM Jesse McCarty, Assistant County Attorney, Miami - Dade County (waives in support)
5:24:14 PM Carlos Gimenez, Mayor, Miami- Dade County
5:26:43 PM Sen. Diaz de la Portilla
5:27:33 PM C. Gimenez
5:28:25 PM John Sullivan, Consultant, Duval County Public Schools, (waives in Support)
5:28:34 PM Mario Baily, Gov. Relations Consultant, Miami - Dade County Public Schools (waives in support)
5:28:42 PM Sen. Hukill
5:28:55 PM Sen. Diaz de la Portilla
5:29:55 PM Sen. Flores
5:31:00 PM Sen. Hukill
5:31:21 PM Roll Call
5:31:49 PM SB 980
5:31:56 PM Sen. Soto
5:32:41 PM Am. 102974
5:32:49 PM Sen. Soto
5:33:20 PM Sen. Hukill
5:33:33 PM Sen. Soto
5:33:35 PM Sen. Hukill

5:33:51 PM Louis Rotunda, Florida Defense Contractors Association (waives in support)
5:34:02 PM Nancy Stephens, Executive Director, Manufacturers (waives in support)
5:34:15 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
5:34:33 PM Brian Pitts, Trustee, Justice-2-Jesus
5:36:53 PM Carolyn Johnson, Policy Director, Florida Chamber of Commerce (waives in support)
5:37:01 PM Jerry Sansom, Northrup Grumman (waives in support)
5:37:07 PM Sen. Hukill
5:37:21 PM Sen. Abruzzo
5:38:11 PM Sen. Soto
5:38:58 PM Roll Call
5:39:14 PM Sen. Hukill
5:39:21 PM SPB 7074
5:39:31 PM Ellen Fournier, Chief Legislative Analyst
5:42:52 PM Sen. Soto
5:43:29 PM Michael Martinez, Deputy General Counsel, Department of Professional and Business Regulation
5:44:56 PM Sen. Soto
5:44:03 PM M. Martinez
5:44:14 PM Sen. Soto
5:44:20 PM M. Martinez
5:44:29 PM Sen. Soto
5:44:52 PM M. Martinez
5:45:54 PM Brian Pitts, Trustee, Justice-2-Jesus, (waives in support)
5:45:57 PM Beth Gosnell, Florida Association of Wholesale Distributors, (waives in opposition)
5:46:30 PM Sen. Hukill
5:46:53 PM Am. 438334
5:47:01 PM Sen. Soto
5:48:06 PM Sen. Hukill
5:48:15 PM Sen. Soto
5:49:37 PM Brian Pitts, Justice-2-Jesus
5:50:50 PM Sen. Margolis
5:51:55 PM Sen. Altman
5:52:40 PM Sen. Diaz de la Portilla
5:53:27 PM Sen. Hukill motion SPB 7074 - Temporarily Postpone
5:53:48 PM Sen. Altman
5:53:59 PM Meeting adjourned