

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FINANCE AND TAX
Senator Gainer, Chair
Senator Gruters, Vice Chair

MEETING DATE: Tuesday, April 9, 2019
TIME: 4:00—6:00 p.m.
PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Building

MEMBERS: Senator Gainer, Chair; Senator Gruters, Vice Chair; Senators Baxley, Bracy, Bradley, Pizzo, Powell, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 264 Banking and Insurance / Gruters (Similar CS/H 537)	Florida Workers' Compensation Joint Underwriting Association; Providing that certain dividends or premium refunds must be retained by the association's joint underwriting plan of insurers as surplus, subject to specified diligent search and notification requirements and subject to certain claims by former insureds, etc. BI 03/11/2019 Fav/CS FT 04/09/2019 Favorable AP	Favorable Yeas 7 Nays 0
2	CS/CS/SB 1000 Community Affairs / Innovation, Industry, and Technology / Hutson (Similar CS/CS/H 693)	Communications Services; Specifying limitations and prohibitions on municipalities and counties relating to registrations and renewals of communications services providers; prohibiting certain municipalities and counties from electing to impose permit fees; specifying prohibited acts by municipalities and counties in the use of their authority over the placement of facilities for certain purposes, etc. IT 03/12/2019 Fav/CS CA 03/26/2019 Fav/CS FT 04/09/2019 Favorable AP	Favorable Yeas 5 Nays 2
3	SB 1098 Lee (Similar H 643)	Sales Tax Refund for Eligible Job Training Organizations; Providing that eligible job training organizations are entitled to receive a refund of a specified percentage of certain sales taxes remitted to the Department of Revenue; requiring such organizations to use the refund only for specified purposes; requiring that refunds be granted on a first-come, first-served basis, etc. CM 03/11/2019 Favorable FT 04/09/2019 Favorable AP	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Finance and Tax

Tuesday, April 9, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 1412 Commerce and Tourism / Gruters (Compare H 1377, S 1112)	Sales Tax Holiday for Disaster Preparedness Supplies; Providing exemptions from the sales and use tax for specified disaster preparedness supplies during a specified timeframe; providing applicability for certain exemptions; authorizing the Department of Revenue to adopt emergency rules; specifying locations where the exemptions do not apply, etc. CM 03/18/2019 Fav/CS FT 04/09/2019 Favorable AP	Favorable Yeas 7 Nays 0

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/SB 264

INTRODUCER: Banking and Insurance Committee and Senator Gruters

SUBJECT: Florida Workers' Compensation Joint Underwriting Association

DATE: April 8, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson/Knudson</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 264 exempts the Florida Workers' Compensation Joint Underwriting Association (JUA) from reporting and remitting to the Department of Financial Services (DFS) any dividend or premium refunds not paid to a former insured because the insured cannot be located.

Within 12 months after the failed initial delivery of the dividend or premium refund the JUA must:

- Conduct a diligent search to locate the former insured.
- Notify the insurance agency on the policy of the premium dividend or refund.
- If the unclaimed dividend or premium refund is valued at \$250 or more, make at least one active notification attempt to directly contact the former insured after completing the diligent search.

The JUA must publish and maintain on its website a list of the names of former insureds who have unclaimed dividends or premium refunds and the amount owed.

A former insured may claim the dividend or premium refund from the JUA at any time.

The bill takes effect July 1, 2019.

The Revenue Estimating Conference determined that the bill will reduce State School Trust Fund receipts by \$300,000 in Fiscal Year 2019-2020, with a \$100,000 recurring reduction.

II. Present Situation:

Florida's Disposition of Unclaimed Property Act

Unclaimed property constitutes any funds or other property, tangible or intangible, that have remained unclaimed by the owner for a certain specified number of years.¹ Common types of unclaimed property are dormant savings or checking accounts, unclaimed insurance proceeds, stocks, bonds, dividends, uncashed checks, refunds, credit balances, and contents of abandoned safe deposit boxes at financial institutions.² The Division of Unclaimed Property, within the Department of Financial Services (DFS), administers Florida's Disposition of Unclaimed Property Act.³ The DFS is responsible for receiving property from holders, safeguarding this property, locating the rightful owners, and returning property to them.

Owners have the right to claim their property at any time. Financial institutions, insurance companies, governmental entities, and other holders of unclaimed property must report and submit unclaimed property to the DFS before May 1 of each year for the preceding calendar year. Holders of inactive accounts (presumed unclaimed property) are required to use due diligence to locate apparent owners.⁴ Once the prescribed period for holding unclaimed property has expired, a holder is required to file a report with the DFS by May 1 for all property valued at \$50 or more and presumed unclaimed for the preceding calendar year.⁵ The report generally must contain the name and social security number or federal employer identification number, if known, and the last known address of the apparent owner.⁶ The report, which includes account information, is uploaded to the DFS unclaimed property website, and the unclaimed property is available to be claimed.⁷

The reporting provisions of s. 717.117, F.S., do not apply to the following circumstances:

- Unclaimed patronage refunds as provided for by contract or through bylaw provisions of entities organized under ch. 425, F.S., or that are exempt from ad valorem taxation pursuant to s. 196.2002, F.S.⁸
- Intangible property held, issued, or owing by a business association subject to the jurisdiction of the United States Surface Transportation Board or its successor federal agency if the apparent owner of such intangible property is a business association. The holder of such property does not have any obligation to report, to pay, or to deliver such property to the DFS.⁹
- Credit balances, overpayments, refunds, or outstanding checks owed by a health care provider to a managed care payor with whom the health care provider has a managed care

¹ See s. 717.102, F.S. *et. seq.*

² See Department of Financial Services, FLTreasureHunt.Gov General Questions, *available at*: <https://www.fltreasurehunt.gov/UP-Web/sitePages/FAQs.jsp> (last visited Mar. 27, 2019).

³ Chapter 717, F.S.

⁴ Section 717.117(4), F.S.

⁵ Section 717.117(3), F.S.

⁶ Section 717.117(1), F.S.

⁷The DFS Unclaimed property website, *available at*: <https://www.fltreasurehunt.gov/> (last visited Mar. 27, 2019).

⁸ Section 717.117(7)(a), F.S.

⁹ Section 717.117(7)(b), F.S.

contract, if the credit balances, overpayments, refunds, or outstanding checks become due and owing pursuant to the managed care contract.^{10,11}

Current law places an obligation on the state, the DFS, to notify owners of unclaimed property accounts valued at over \$250, in a cost-effective manner, including through attempts to contact the owner directly.¹² The DFS indicates that the means used to find lost property owners include social security numbers, direct mailing, motor vehicle records, state payroll records, newspaper advertisements, and the state website.

Five years is the dormancy period for most types of property, and it is the default dormancy period for any property types for which a dormancy period is not provided in statute.¹³ The dormancy period for all property types of any governmental entity, or subdivision thereof, is one year, as is the case with property held by any government entity or subdivision thereof, or statutorily-created entity such as the JUA or Citizens Insurance (created by legislature, governed by the Cabinet or by a board appointed by elected officials).¹⁴

All funds from unclaimed property, including proceeds from the sale of safe deposit items and securities, are deposited into the Abandoned Property Trust Fund. The trust fund entirely finances program operations and pays owner claims. The DFS retains a balance, not to exceed \$15 million, in the trust fund to enable prompt claim payments. The remaining unclaimed funds are transferred into the State School Fund to support public education. The State School Fund will receive an estimated \$129.4 million in unclaimed property during the 2018-2019 fiscal year.¹⁵

Florida Workers' Compensation Joint Underwriting Association

The Legislature created the Workers' Compensation Joint Underwriting Association¹⁶ (JUA) as a nonprofit, self-funding entity that is the insurer of last resort for employers in Florida who are unable to secure coverage in the voluntary market. The board of the JUA is composed of a nine-member board of governors appointed by the Financial Services Commission.¹⁷

The JUA establishes three tiers of employers, grouped according to their loss experience, for purposes of establishing rates. Tier One employers have good loss experience, Tier Two employers have loss experience inferior to those in Tier One, and Tier Three employers have loss

¹⁰ Section 717.117(7)(c), F.S.

¹¹ Section 624.4621, F.S., relating to the regulation of group self-insurance funds, provides another exception. The section provides that any dividend or premium refund that cannot be paid to the applicable member or policyholder or former member or policyholder of the group self-insurer because the former member or policyholder cannot be reasonably located becomes the property of the group self-insurer.

¹² Section 717.118(1), F.S.

¹³ Section 717.102, F.S.

¹⁴ Section 717.113, F.S., provides that all intangible property held for the owner by any court, government or governmental subdivision or agency, public corporation, or public authority that has not been claimed by the owner for more than 1 year after it became payable or distributable is presumed unclaimed.

¹⁵ See Section V., Fiscal Impact Statement C. Public Sector Impact in this analysis.

¹⁶ The JUA was created in 1993 and was the successor of the Florida Workers' Insurance Plan. Ch. 93-415, Laws of Fla.

¹⁷ Section 627.311(5)(b), F.S.

experience that do not qualify them for Tier One or Tier Two.¹⁸ For 2019, the JUA will charge rates based on premiums in the voluntary market, adjusted upward by 5 percent for Tier One employers, 20 percent for Tier Two employers, and 42 percent for Tier Three employers.¹⁹

Prior to the workers' compensation reforms in 2003, the JUA experienced a significant increase in the number of policies due to availability and affordability issues in the private market. The 2003 reforms revised the JUA to address affordability and availability for small employers and charitable and nonprofit organizations by creating a new subplan for such employers, limiting premiums to no more than 125 percent of the rate in the voluntary market, and authorizing assessments against employers if the subplan experienced a deficit.²⁰ According to the JUA no assessments have been levied on employers.

Policyholders of the JUA sometimes receive dividends and premium refunds, which are provided 7 years after the policy year. If the insured cannot be found, the JUA must remit the property to DFS once it has been unclaimed for more than one year after it became payable or distributable pursuant to s. 717.113, F.S.

Financial Condition of the FWCJUA

For calendar year 2017, the JUA recognized a surplus of \$87,937,954. As of September 30, 2018, the JUA recognized a \$91,938,906, surplus. This information is delineated below by subplan and tier, as follows:

Subplan/Tier	Effective Date of Subplan/Tier	September 30, 2018 Total Surplus or Deficit	2017 Total Surplus or (Deficit)
Subplans P, A, and C	January 1, 1994	\$39,883,694	\$39,171,914
Subplan D	July 1, 2003	(\$118,309)	(\$118,309) ²¹
Tier 1	July 1, 2004	\$6,849,573	\$5,961,950
Tier 2	July 1, 2004	\$15,038,034	\$12,962,723
Tier 3	July 1, 2004	\$30,285,914	\$29,959,676
Net Surplus or Deficit		\$91,938,906	\$87,937,954

III. Effect of Proposed Changes:

Section 1 amends s. 627.311, F.S., to provide that any dividend or premium refund issued by the Florida Workers' Compensation Joint Underwriting Association that cannot be paid to a former insured because the former insured cannot be reasonably located would be retained by the WCJUA for future use.

¹⁸ Section 627.311(5)(c)22., F.S.

¹⁹ See Office of Insurance Regulation, Letter from Sandra Starnes, Office of Insurance Regulation Director Property & Casualty Product Review, to Michael K. Clearly, Florida Workers' Compensation Joint Underwriting Association Operations Manager, regarding OIR File Number FWC 18-12920 (Dec. 19, 2018). *available at*: <https://www.fwcjua.com/Home/DisplayDocument?intDocId=5353> (last visited Mar.27, 2019).

²⁰ See s. 35, Ch. 2003-412, L.O.F.

²¹ The JUA estimates that total state funds needed to fund the Subplan D deficit through the contingency reserve are approximately \$4.2 million, which is \$3.7 million less than the \$7.9 million already appropriated and received from the Florida Legislature, and thus, no additional cash needs are anticipated. See correspondence from WCJUA to the OIR, dated July 13, 2018, *available at*: <http://www.fwcjua.com/Home/DisplayDocument?intDocId=5060> (last visited Apr. 4, 2019).

Within 12 months after the failed initial delivery of the dividend or premium refund the JUA must:

- Conduct a diligent search to locate the former insured using a reasonable and prudent method to locate the owner. Examples of a diligent search include searching a nationwide database using a taxpayer identification number or social security number, cross indexing with other records related to the owner, mailing to the last known address unless known to be inaccurate, or engaging a licensed agency or company capable of performing the forgoing actions.
- Notify the insurance agency on the policy of the premium dividend or refund. Such notice does not constitute notice to the owner or make the agency responsible for the unclaimed property.
- If the unclaimed dividend or premium refund is valued at \$250 or more, make at least one active notification attempt to directly contact a former insured after completing the diligent search. An active notification attempt does not include publication in a newspaper, on television, on the Internet, or through other promotional efforts and items.

The JUA must publish and maintain on its website a list of the names of former insureds who have unclaimed dividends or premium refunds and the amount owed.

A former insured may claim the dividend or premium refund from the JUA at any time.

Section 2 provides this act takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

The retention by the JUA of unclaimed property will reduce the likelihood of an assessment of policyholders of the JUA or in the private market in the event the JUA runs a deficit. To date, the JUA has never had to assess policyholders.

C. Government Sector Impact:

The Revenue Estimating Conference has determined that the bill will reduce State School Trust Fund receipts by \$300,000 in Fiscal Year 2019-2020, with a \$100,000 recurring reduction.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.311 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 by Banking and Insurance Committee on March 11, 2019:

- Requires the JUA to conduct a diligent search to locate the former insured; notify the insurance agency on the policy of the premium dividend or refund; and if the unclaimed dividend or premium refund is valued at \$250 or more, make at least one active notification attempt to directly contact a former insured.
- Requires the JUA to publish and maintain on its website a list of the names of former insureds who have unclaimed dividends or premium refunds and the amount owed.
- Provides that a former insured may claim the dividend or premium refund from the JUA at any time.

B. Amendments:

None.

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

By the Committee on Banking and Insurance; and Senator Gruters

597-02917-19

2019264c1

1 A bill to be entitled
 2 An act relating to the Florida Workers' Compensation
 3 Joint Underwriting Association; amending s. 627.311,
 4 F.S.; providing that certain dividends or premium
 5 refunds must be retained by the association's joint
 6 underwriting plan of insurers as surplus, subject to
 7 specified diligent search and notification
 8 requirements and subject to certain claims by former
 9 insureds; defining the terms "diligent search" and
 10 "active notification attempt"; providing an effective
 11 date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Paragraph (h) of subsection (5) of section
 16 627.311, Florida Statutes, is amended to read:
 17 627.311 Joint underwriters and joint reinsurers; public
 18 records and public meetings exemptions.—
 19 (5)
 20 (h)1. Any premium or assessments collected by the plan in
 21 excess of the amount necessary to fund projected ultimate
 22 incurred losses and expenses of the plan and not paid to
 23 insureds of the plan in conjunction with loss prevention or
 24 dividend programs must ~~shall~~ be retained by the plan for future
 25 use.
 26 2. Any state funds received by the plan in excess of the
 27 amount necessary to fund deficits in subplan D or any tier must
 28 ~~shall~~ be returned to the state.
 29 3. Any dividend or premium refund not paid to a former

Page 1 of 3

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

597-02917-19

2019264c1

30 insured of the plan because the insured cannot be located must
 31 be retained by the plan as surplus, subject to the following
 32 conditions:
 33 a. Within 12 months after the failed initial delivery of
 34 the dividend or premium refund, the plan shall:
 35 (I) Conduct a diligent search to locate the former insured.
 36 As used in this sub-subparagraph, the term "diligent search"
 37 means the use of a reasonable and prudent method under
 38 particular circumstances to locate a former insured to whom a
 39 dividend or premium refund is owed. Such method includes
 40 searching a nationwide database by using the taxpayer
 41 identification number or social security number, if known;
 42 cross-indexing with other records related to the former insured;
 43 mailing to the last known address unless the last known address
 44 is known to be inaccurate; or engaging a licensed agency or
 45 company capable of conducting such search and providing an
 46 updated address.
 47 (II) Notify the insurance agency on the policy of such
 48 dividend or premium refund. Notification to the insurance agency
 49 does not constitute notification to the former insured and does
 50 not make the insurance agency responsible for the dividend or
 51 premium refund.
 52 (III) For an unclaimed dividend or premium refund valued at
 53 \$250 or more, make at least one active notification attempt
 54 after completing the diligent search. As used in this sub-sub-
 55 paragraph, the term "active notification attempt" means an
 56 attempt to directly contact a former insured to notify him or
 57 her of an unclaimed dividend or premium refund. The term does
 58 not include other means of notification which do not involve an

Page 2 of 3

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597-02917-19

2019264c1

59 attempt to directly contact the former insured, such as
60 publication of the name of the former insured in a newspaper, on
61 television, on the Internet, or through other promotional
62 efforts and items.

63 b. The plan shall publish and maintain on the plan's
64 website a list of the names of the former insureds who have
65 unclaimed dividend or premium refunds and the amount of the
66 dividend or premium refunds owed.

67 c. Notwithstanding s. 95.11, a former insured with
68 satisfactory proof may claim any such dividend or premium refund
69 from the plan at any time.

70 Section 2. This act shall take effect July 1, 2019.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Finance and Tax
ITEM: CS/SB 264
FINAL ACTION: Favorable
MEETING DATE: Tuesday, April 9, 2019
TIME: 4:00—6:00 p.m.
PLACE: 401 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
X		Bracy						
X		Bradley						
X		Pizzo						
X		Powell						
X		Stargel						
X		Gruters, VICE CHAIR						
		Gainer, CHAIR						
7	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable UNF=Unfavorable -R=Reconsidered
RCS=Replaced by Committee Substitute RE=Replaced by Engrossed Amendment RS=Replaced by Substitute Amendment
TP=Temporarily Postponed VA=Vote After Roll Call VC=Vote Change After Roll Call
WD=Withdrawn OO=Out of Order AV=Abstain from Voting



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Banking and Insurance

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR JOE GRUTERS
23rd District

March 14, 2019

The Honorable George B. Gainer, Chair
Committee on Finance and Tax
215 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Gainer:

I am writing to request that Senate Bill 264, Florida Workers' Compensation Joint Underwriting Association, be placed on the agenda of the Finance and Tax Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

cc: Jose Diez-Arguelles, Staff Director
Lynn Wells, Committee Administrative Assistant

REPLY TO:

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-9-2019

Meeting Date

SB 264

Bill Number (if applicable)

Topic Florida Workers' Compensation JUA

Amendment Barcode (if applicable)

Name Robert Hawken

Job Title _____

Address 150 S. Monroe St Suite 300

Phone 850-509-5900

Street

Tallahassee FL 32301

Email hawk@leathfl.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Workers' Compensation JUA

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)

4 / 9 / 2019

Meeting Date

Topic _____

Bill Number 264
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

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
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 1000

INTRODUCER: Community Affairs Committee; Innovation, Industry, and Technology Committee; and Senator Hutson

SUBJECT: Communications Services

DATE: April 9, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
2.	<u>Ryon</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Favorable</u>
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1000 makes extensive changes to s. 337.401, F.S., which governs the use of public rights-of-way by providers of communications services. These changes include:

- Creating a civil cause of action for any person aggrieved by a violation of the right-of-way statute.
- Prohibiting a local government from instituting, “either expressly or de facto, a moratorium or other mechanism that would prohibit or delay” permits for collocation of small wireless facilities or related poles.
- Deleting the authority for a local government to require performance bonds and security funds. Instead, the bill allows them to require a construction bond limited to no more than 1 year after the construction is completed;
- Requiring a local government to accept a letter of credit or similar instrument issued by any financial institution authorized to do business within the U.S.;
- Allowing a provider of communications services to add a local government to any existing bond, insurance policy, or other financial instrument, and requiring the local government to accept such coverage;
- Prohibiting a local government from requiring a permit applicant to provide inventories, maps, or locations of communication facilities in the rights-of-way, unless it is necessary to avoid interference with existing facilities; and

- Providing additional requirements pertaining to a local government's permit registration and application process for communications services providers' use of public rights-of-way.

The bill also prohibits a municipality and county from imposing permit fees for the use of public rights-of-way by communications services providers if it had not levied permit fees as of January 1, 2019. In contrast, municipalities and counties that were imposing permit fees as of that date may continue to do so or may elect to no longer impose permit fees.

The bill takes effect July 1, 2019.

II. Present Situation:

Local Communications Services Tax

Local governments may levy a local discretionary communication services tax (CST), which varies by jurisdiction.¹ The maximum rate a municipality or charter county may levy is 5.1 percent if the local government does not levy permit fees (or 4.98 percent if the municipality or charter county levies permit fees, which are discussed below).² The maximum rate for a non-charter county is 1.6 percent.³ Maximum rates do not include add-ons of up to 0.12 percent for municipalities and charter counties or up to 0.24 percent for non-charter counties, which is discussed below.⁴ Further, temporary emergency rates may exceed the statutory maximum rates.⁵ The local CST does not apply to direct-to-home satellite services.⁶

Local Government Election to Impose Permit Fees for Use of Public Rights-of-Way by Communications Services Providers

Section 337.401(3)(c), F.S., allows local governments to require and collect permit fees from any provider of communications services that uses or occupies municipal or county roads or rights-of-way. All fees must be reasonable and commensurate with the direct and actual cost of the regulatory activity, demonstrable, and equitable among users of the roads or rights-of-way. Fees may not: be offset against the communications services tax; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way; or exceed \$100.

Before July 16, 2001, each local government was required to make an election on whether to charge permit fees. Local CST rates were different for municipalities and charter counties compared to non-charter counties.

¹ Section 202.19(1), F.S.

² Section 202.19(2)(a), F.S.

³ Section 202.19(2)(b), F.S.

⁴ Section 202.19(2)(c), F.S.

⁵ *Id.*

⁶ Section 202.19(6), F.S.

The options for a municipality or charter county were: (1) to require and collect permit fees, but have its local CST rate automatically reduce by 0.12 percent; or (2), elect not to charge permit fees and increase, by ordinance or resolution, the local CST rate by an amount not to exceed 0.12 percent. A municipality or charter county that did not make the required election was statutorily presumed to have elected not to require and collect permit fees.

In contrast, a non-charter county that elected to require and collect permit fees had no reduction in its local CST rate, and a non-charter county that elected not to charge permit fees could increase its local CST rate, by ordinance or resolution, by an amount not to exceed 0.24 percent. A non-charter county that did not make the required election was statutorily presumed to have elected not to require and collect permit fees.

Section 337.401(3)(j), F.S., allows a local government to change its election. If a municipality or charter county changes its election in order to require and collect permit fees, its local CST rate would automatically be reduced by 0.12 percent plus the percentage, if any, by which the rate was previously increased due to the previous election. If a municipality or charter county changes its election in order to no longer require and collect permit fees, its local CST rate could be increased by an amount not to exceed 0.24 percent.

If a non-charter county changes its election in order to require and collect permit fees, its local CST rate would automatically be reduced by the percentage, if any, by which such rate was increased due to the previous election. If a non-charter county changes its election in order to no longer require and collect permit fees, its local CST rate could be increased by an amount not to exceed 0.24 percent.

Permitting for Use of Public Rights-of-Way by Communications Service Providers

Pursuant to s. 337.401, F.S., each local government that has jurisdiction and control of public roads or publicly owned rail corridors is authorized to adopt and enforce reasonable rules or regulations with regard to the placement and maintenance of utility facilities across, on, or within the right-of-way limits of any road or publicly owned rail corridors under its jurisdiction. Each local government may authorize any person who is a resident of this state, or any corporation which is organized under the laws of this state or licensed to do business within this state, to use a right-of-way for a utility⁷ in accordance with the local government's rules or regulations. A utility may not be installed, located, or relocated within a right-of-way unless authorized by a written permit.

Permitting for Small Wireless Facilities in the Public Rights-of-Way

In 2017, the Legislature passed the Advanced Wireless Infrastructure Deployment Act (Act), which established a process by which wireless providers may place certain "small wireless facilities"⁸ on, under, within, or adjacent to certain utility poles or wireless support structures

⁷ Section 337.401(1)(a), F.S., refers to "any electric transmission, telephone, telegraph, or other communications services lines; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to in this section and in ss. 337.402, 337.403, and 337.404" as a "utility."

⁸ "Small wireless facility" is defined in s. 337.401(7)(b)10., F.S., to mean a wireless facility that meets the following qualifications:

within public rights-of-way under the jurisdiction and control of a local government.⁹ The Act prescribes the specific terms and conditions under which an authority¹⁰ must process and issue permits for collocation¹¹ of small wireless facilities in the public rights-of-way. The impetus for the passage of the Act was to streamline local permitting regulations in order to facilitate the deployment of fifth generation, or 5G, wireless technology. As of June 2018, 20 states had enacted “small cell” legislation that streamlines regulations to facilitate the deployment of 5G small cells.¹²

III. Effect of Proposed Changes:

The bill prohibits a municipality or county from imposing permit fees for the use of public rights-of-way by communications services providers if it had not levied the permit fees as of January 1, 2019. In contrast, municipalities and counties that were imposing permit fees as of that date may continue to do so or may elect to no longer impose permit fees. As of January 2019, three local governments – one municipality, one charter county, and one non-charter county – impose permit fees.¹³

The bill also makes extensive changes to s. 337.401(3) and (7), F.S., relating to the use of public rights-of-way and small and micro wireless infrastructure.¹⁴ For ease of the reader, the current law is described immediately prior to the discussion of each change proposed in the bill.

Current Law: Current law contains a statement of legislative intent that local governments treat providers of communications services in a nondiscriminatory and competitively neutral manner.

-
- a. Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and
 - b. All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

⁹ Chapter 2017-136, Laws of Fla.

¹⁰ Section 337.401(7)(b)5., F.S. “Authority” means a county or municipality having jurisdiction and control of the rights-of-way of any public road. The term does not include the Department of Transportation.

¹¹ Section 337.401(7)(b)7., F.S. “Collocation” means to install, mount, maintain, modify, operate, or replace one or more wireless facilities, on, under, within, or adjacent to a wireless support structure or utility pole.

¹² National Conference of State Legislatures. Legis Brief Vol. 26, No.22: *5G: The Future of Wireless Technology* (June 2018), available at: http://www.ncsl.org/documents/legisbriefs/2018/june/LBJune2018_SmallCell_goID32451.pdf. (last visited April 4, 2019).

¹³ See Florida Department of Revenue, *Florida Communications Services Tax – Historical, Current and Upcoming Local Tax Rates*, available at: http://floridarevenue.com/taxes/Documents/cst_rate_table.xlsx (last visited April 4, 2019).

¹⁴ “Wireless facility” means equipment at a fixed location which enables wireless communications between user equipment and a communications network. The term includes radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment. The term includes small wireless facilities.

“Small wireless facility” means a wireless facility for which each associated antenna associated is located inside, or could fit within, an enclosure of no more than 6 cubic feet in volume, and all other associated wireless equipment is cumulatively no more than 28 cubic feet in volume.

“Micro wireless facility” means a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches. s. 337.401(7)(b)12., 10., and 9., F.S., respectively.

Proposed Change: The bill requires local governments to take into account the distinct engineering, construction, operation, maintenance, public works and safety requirements of the provider's facilities when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way.

Current Law: Current law allows a municipality or county to require a provider of communications services that places or seeks to place facilities in its roads or rights-of-way to register with the municipality or county, and limits the types of information that may be required in registration to identification and location information and any required proof of insurance or self-insuring status adequate to defend and cover claims.

Proposed Change: The bill provides that a municipality or county may not require registration or renewal more frequently than every five years, but may request that a provider submit any updates during the period if any registration information changes. The bill also prohibits a local government from requiring the provision of an inventory of communications facilities, maps, locations of such facilities or other information as a condition of registration, renewal, or for any other purpose. It does allow a local government to require as part of a permit application that the applicant identify at-grade (ground level) communications facilities within 25 feet of the proposed installation location for the placement of at grade communications facilities. The bill also prohibits: requiring a provider to pay any fee, cost, or other charge for registration or renewal; adoption or enforcement of any ordinances, regulations, or requirements as to the placement or operation of communications facilities in a right of way by a communications services provider; or imposition or collection of any tax or charge for the provision of communications services over the communications services provider's communications facilities in a right of way.

Current Law: Current law prohibits the imposition of permit fees for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

Proposed Change: The bill adds that this prohibition includes emergency repairs of existing facilities; extensions of existing facilities for providing communications services to customers; and the placement of micro wireless facilities suspended on cables between existing poles.

Current Law: Current law requires a local government to provide to the Secretary of State notice of a proposed ordinance governing a telecommunications company placing or maintaining facilities in its roads or rights-of-way within specified times. Failure to provide the notice does not render the ordinance invalid.

Proposed Change: The bill requires that, if notice was not provided, the ordinance must be suspended until 30 days after the municipality or county provides the required notice.

Current Law: Current law prohibits a local government from using its authority over the placement of facilities in its roads and rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or the Federal Communications Commission.

Proposed Change: The bill prohibits the local government from exercising control over equipment or technology used by a provider. The bill also prohibits a local government from requiring any permit for the maintenance, repair, replacement, or upgrade of existing aerial wireline communications facilities on utility poles or attachments on utility poles by a communications service provider. A local government may, however, require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane, unless the provider is making emergency restoration or repair work to existing facilities. Additionally, the bill prohibits a local government from requiring a permit or any charge for the maintenance, repair, replacement, or upgrade of existing aerial or underground communications facilities on private property outside the public rights-of-way.

Current Law: Current law does not specify a timeframe within which local governments must process a permit application for the placement of communications facilities in the public right-of-way by a communications services provider, except with respect to the permitting of small wireless facilities.¹⁵

Proposed Change: The bill provides that all permit applications required by a local government for the placement of communications facilities must be processed consistent with the timeframes established for small wireless facilities.

Current Law: Current law states that a local government may adopt or enforce reasonable rules or regulations concerning use of its rights-of-way.

Proposed Change: The bill requires that any such rules or regulations be in writing. It also requires that a local government give providers at least 60 days advance written notice before making any changes to the rules or regulations.

Current Law: For purposes of the Advanced Wireless Infrastructure Deployment Act, the definition of “applicable codes” includes provisions on “objective design standards,” or aesthetics. The significance of this is that an authority must approve a complete application unless it does not meet the authority’s applicable codes. If these aesthetic requirements are part of applicable codes, the aesthetic requirements must be met for approval of an application.

Proposed Change: The bill transfers the aesthetic requirements from the definition of “applicable codes” to subparagraph 337.401(7)(f)6. Currently, paragraph 337.401(7)(f) allows a permitting authority to deny a proposed collocation of a small wireless facility in the public rights-of-way if the proposed collocation meets one of a list of disqualifying criteria. The addition of objective design standards means that the permitting authority may deny a proposed collocation that does not meet these standards. The statute defines the term “collocation” to mean “to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way.” Thus, a service provider would have to meet objective design standards to locate a wireless facility on or adjacent to an existing utility pole or wireless support structure, but not to install a facility on a new pole or support structure.

¹⁵ See s. 337.401(7)(d)7.-9., F.S., for the timeframes applicable to small wireless facilities.

Current Law: The current definition of “application” means a request submitted by an applicant to an authority for a permit “to collocate small wireless facilities.”

Proposed Change: The bill adds a request for a permit “to place a new utility pole used to support a small wireless facility,” thus requiring local governments to permit new poles.

Proposed Change: The bill changes the definition of “wireless support structure” to include a “pedestal or other support structure for ground based equipment not mounted on a utility pole and less than 10 feet in height,” thus requiring a local government to permit these support structures.

Current Law: Current law prohibits an authority from prohibiting, regulating, or charging for the collocation of small wireless facilities in public rights-of-way.

Proposed Change: The bill adds to this prohibition “the installation, maintenance, modification, operation or replacement of utility poles used for the collocation of small wireless facilities,” allowing installation of a utility pole without regulation or charge.

Current Law: Current law provides that an applicant for a permit to place small wireless facilities is not required to provide more information than is necessary to demonstrate the applicant’s compliance with applicable codes.

Proposed Change: The bill adds a prohibition against requiring an applicant to provide inventories, maps, or locations of communications facilities in the right-of-way other than as necessary to avoid interference with other at-grade facilities located at the specific location proposed for a small wireless facility or within 25 feet of such location.

Current Law: Current law prohibits a local government from requiring the placement of small wireless facilities on any specific utility pole or category of poles.¹⁶

Proposed Change: The bill adds additional prohibitions. Under the bill, a local government may not:

- Require a demonstration that collocation of a small wireless facility on an existing structure is not legally or technically possible as a condition for granting a permit for the collocation of a small wireless facility on a new utility pole;
- Require compliance with an authority’s provisions regarding placement of small wireless facilities or a new utility pole used to support a small wireless facility in rights-of-way under the control of the Department of Transportation;
- Require a meeting before filing an application;
- Require direct or indirect public notification or a public meeting for the placement of communication facilities in the right-of-way;
- Limit the size or configuration of a small wireless facility or any of its components, if the small wireless facility complies with the stated size limits;
- Prohibit the installation of a new utility pole used to support the collocation of a small wireless facility if the installation otherwise meets the requirements of the subsection;

¹⁶ Section 337.401(7)(d)3., F.S.

- Require that any component of a small wireless facility be placed underground; or
- Require that any existing communication facility be placed underground.

Current Law: Current law provides for review, approval, and denial of an application for a permit to use rights-of-way.

Proposed Change: The bill provides that the availability of any subsequent review by the permitting authority does not bar review of a denial in a court of competent jurisdiction.

Current Law: Current law allows a local government to require insurance, indemnification, performance bonds, or security funds.

Proposed Change: The bill removes the authority a local government has to require a performance bond and security fund as part of the registration process. Instead, a local government may require a construction bond limited to no more than one year after the construction is completed. The bill also requires the local government to accept a letter of credit or similar financial instrument issued by any financial institution that is authorized to do business within the United States. The bill states that a provider of communications services “may add an authority to any existing bond, insurance policy, or other relevant financial instrument, and the authority must accept such proof of coverage without any conditions.” Finally, an authority may not require a communications services provider to indemnify it for liabilities not caused by the provider, including liabilities arising from the authority’s negligence, gross negligence, or willful conduct.

Current Law: Current law contains size limitations for micro wireless facilities.

Proposed Change: The bill provides that an authority may require an initial letter from or on behalf of a provider attesting that the micro wireless facility dimensions comply with the limits but after that filing, the authority may not require any additional filing or other information as long as the provider is deploying the same or a substantially similar or smaller size micro wireless facility equipment.

Proposed Change: The bill prohibits a local government permitting authority from “instituting, either expressly or de facto, a moratorium, zoning-in-progress, or other mechanism that would prohibit or delay the filing, receiving, or processing of registrations, applications, or issuing of permits or other approvals for the collocation of small wireless facilities or the installation, modification, or replacement of utility poles used to support the collocation of small wireless facilities.”

Proposed Change: The bill creates a cause of action for any person aggrieved by a violation of the right-of-way statute. Any such person may bring a civil action in a U.S. District Court or any other court of competent jurisdiction and the court may grant temporary or permanent injunctions to prevent or restrain violations and direct the recovery of full costs, including awarding reasonable attorney fees, to the party who prevails.

The bill also amends s. 202.20, F.S., to conform a cross-reference.

The bill takes effect on July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII, 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.

In part, the amendments made to s. 337.401 of the bill limit the authority a local government has to levy a permit fee on communication services providers use of the rights-of-way. However, the reduced authority is replaced with the authority to increase the total tax rate a local government may impose on communication services.

The bill also preempts counties and municipalities from imposing regulatory fees for activities related to permitting for use of public rights-of-way by communications services providers and for small wireless facilities.

However, an exemption may apply if these provisions have an insignificant fiscal impact, which for Fiscal Year 2019-2020 is \$2.1 million.^{17, 18, 19}

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

¹⁷ FLA. CONST. art. VII, s. 18(d).

¹⁸ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited April 4, 2019).

¹⁹ Based on the Demographic Estimating Conference's population adopted on Feb. 6, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited April 4, 2019).

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

The Revenue Estimating Conference determined this bill will either have no fiscal impact to local government revenues or will decrease local government revenues in an indeterminate amount.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill removes the ability for a local government to elect to charge permit fees for communications services providers' use of public rights-of-way. The bill also preempts counties and municipalities from imposing regulatory fees for activities related to permitting for use of public rights-of-way by communications services providers and for small wireless facilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 202.20 and 337.401.

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 Community Affairs on March 26, 2019:**

The committee substitute makes the following changes to the bill:

- Removes the decrease in the state communications services tax rate.
- Allows a city or county to request updates from a communications services provider during the five year registration period if any registration information changes.
- Provides that if a city or county fails to notify the Department of State of a proposed ordinance governing a telecommunications providers' use of public roads or rights-of-ways, the ordinance must be suspended until 30 days after the city or county provides the required notice.
- Clarifies that a city or county may not require a permit for the maintenance, repair, replacement, or upgrade of existing aerial wireline communications facilities on utility poles or related attachments.

- Clarifies provisions prohibiting a city or county from requiring a permit or fee for the maintenance, repair, replacement, or upgrade of existing aerial or underground communications facilities on private property.
- Allows the prevailing party in a civil suit for a violation of the right-of-way statute to recover full costs, including reasonable attorney fees. The bill allowed this for the *aggrieved* prevailing party only.

CS by Innovation, Industry, and Technology on March 12, 2019:

The committee substitute revises the bill's provisions on to the election on permit fees and communications services taxes rates. Municipalities and counties that, as of January 1, 2019, were not imposing permit fees cannot reverse this election and cannot impose permit fees. In contrast, municipalities and counties that were imposing permit fees as of that date may continue to do so or may elect to no longer impose permit fees. The bill retains existing provisions on fees and changes to elections applicable only to this latter group.

The committee substitute adds to the bill extensive provisions on use of rights-of-way, including provisions on small and micro wireless infrastructure, including:

- Creating a civil cause of action for any person aggrieved by a violation of the right-of-way statute in a U.S. District Court or any other court of competent jurisdiction for a temporary or permanent injunction and recovery of full costs and reasonable attorney fees to a prevailing aggrieved party;
- Prohibiting a local government permitting authority from instituting, either expressly or de facto, a moratorium or other mechanism that would prohibit or delay permits for collocation of small wireless facilities or related poles;
- Deleting authority for a local government to require performance bonds and security funds and allowing them to require a construction bond limited to no more than one year after the construction is completed;
- Requiring a local government to accept a letter of credit or similar instrument issued by any financial institution authorized to do business within the U.S.;
- Allowing a provider of communications services to add a permitting authority to any existing bond, insurance policy, or other financial instrument, and requiring the authority to accept such coverage.

Finally, under the committee substitute, a local government may not:

- Prohibit, regulate, or charge for the installation, maintenance, modification, operation or replacement of utility poles used for the collocation of small wireless facilities;
- Require a demonstration that collocation of a small wireless facility on an existing structure is not legally or technically possible as a condition for granting a permit for collocation on a new utility pole;
- Require compliance with an authority's law regarding placement of small wireless facilities or a new utility pole used to support a small wireless facility in rights-of-way not controlled by the authority;
- Require a meeting before filing an application;
- Require direct or indirect public notification or a public meeting for the placement of communication facilities in the right-of-way;

- Limit the size or configuration of a small wireless facility or any of its components, if the small wireless facility complies with existing size limits;
- Require that any component of a small wireless facility be placed underground; or
- Require that any existing communication facility be placed underground.

B. Amendments:

None.

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

By the Committees on Community Affairs; and Innovation,
Industry, and Technology; and Senator Hutson

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1 A bill to be entitled
2 An act relating to communications services; amending
3 s. 202.20, F.S.; conforming a cross-reference;
4 amending s. 337.401, F.S.; revising legislative
5 intent; specifying limitations and prohibitions on
6 municipalities and counties relating to registrations
7 and renewals of communications services providers;
8 authorizing municipalities and counties to require
9 certain information as part of a permit application
10 and to request certain updates from providers;
11 prohibiting municipalities and counties from requiring
12 a payment of fees, costs, or charges for provider
13 registration or renewal; prohibiting municipalities
14 and counties from adopting or enforcing certain
15 ordinances, regulations, or requirements; specifying
16 limitations on municipal and county authority to
17 regulate and manage municipal and county roads or
18 rights-of-way; prohibiting certain municipalities and
19 counties from electing to impose permit fees;
20 providing retroactive applicability; authorizing
21 certain municipalities and counties to continue to
22 require and collect such fees; deleting obsolete
23 provisions; specifying activities for which permit
24 fees may not be imposed; deleting certain provisions
25 relating to municipality, charter county, and
26 noncharter county elections to impose, or not to
27 impose, permit fees; requiring that enforcement of
28 certain ordinances must be suspended until certain
29 conditions are met; revising legislative intent

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30 relating to the imposition of certain fees, costs, and
31 exactions on providers; specifying a condition for
32 certain in-kind compensation; specifying prohibited
33 acts by municipalities and counties in the use of
34 their authority over the placement of facilities for
35 certain purposes; authorizing municipalities and
36 counties to require a right-of-way permit for certain
37 purposes; providing requirements for processing
38 certain permit applications; prohibiting
39 municipalities and counties from certain actions
40 relating to certain aerial or underground
41 communications facilities; specifying limitations and
42 requirements for certain municipal and county rules
43 and regulations; revising definitions under the
44 Advanced Wireless Infrastructure Deployment Act;
45 prohibiting certain actions by an authority relating
46 to certain utility poles; prohibiting authorities from
47 requiring permit applicants to provide certain
48 information, except under certain circumstances;
49 adding prohibited acts by authorities relating to
50 small wireless facilities, application requirements,
51 public notification and public meetings, and the
52 placement of certain facilities; revising
53 applicability of authority rules and regulations
54 governing the placement of utility poles in the public
55 rights-of-way; providing construction relating to
56 judicial review of certain application denials; adding
57 grounds for an authority's denial of a proposed
58 collocation of a small wireless facility in the public

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59 rights-of-way; deleting an authority's authorization
 60 to adopt ordinances for performance bonds and security
 61 funds; authorizing an authority to require a
 62 construction bond, subject to certain conditions;
 63 requiring authorities to accept certain financial
 64 instruments for certain financial obligations;
 65 authorizing providers to add authorities to certain
 66 financial instruments; prohibiting an authority from
 67 requiring a provider to indemnify the authority for
 68 certain liabilities; prohibiting an authority from
 69 requiring a permit, approval, fees, charges, costs, or
 70 exactions for certain activities; authorizing and
 71 limiting filings the authority may require relating to
 72 micro wireless facility equipment; providing an
 73 exception to a provision authorizing an authority to
 74 require a certain right-of-way permit; authorizing
 75 authorities to require wireless providers to comply
 76 with certain objective design standards adopted by
 77 ordinance; authorizing the authority to waive such
 78 design standards under certain circumstances;
 79 providing a requirement for the waiver; revising an
 80 authority's authorization to apply certain ordinances
 81 to applications filed before a certain timeframe;
 82 prohibiting authorities from certain actions relating
 83 to registrations, applications, permits, and approvals
 84 in relation to small wireless facilities; deleting a
 85 requirement for wireless providers to comply with
 86 certain undergrounding requirements; authorizing a
 87 civil action for violations; authorizing actions a

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88 court may take; providing an effective date.
 89
 90 Be It Enacted by the Legislature of the State of Florida:
 91
 92 Section 1. Paragraph (b) of subsection (2) of section
 93 202.20, Florida Statutes, is amended to read:
 94 202.20 Local communications services tax conversion rates.—
 95 (2)
 96 (b) Except as otherwise provided in this subsection,
 97 "replaced revenue sources," as used in this section, means the
 98 following taxes, charges, fees, or other impositions to the
 99 extent that the respective local taxing jurisdictions were
 100 authorized to impose them prior to July 1, 2000.
 101 1. With respect to municipalities and charter counties and
 102 the taxes authorized by s. 202.19(1):
 103 a. The public service tax on telecommunications authorized
 104 by former s. 166.231(9).
 105 b. Franchise fees on cable service providers as authorized
 106 by 47 U.S.C. s. 542.
 107 c. The public service tax on prepaid calling arrangements.
 108 d. Franchise fees on dealers of communications services
 109 which use the public roads or rights-of-way, up to the limit set
 110 forth in s. 337.401. For purposes of calculating rates under
 111 this section, it is the legislative intent that charter counties
 112 be treated as having had the same authority as municipalities to
 113 impose franchise fees on recurring local telecommunication
 114 service revenues prior to July 1, 2000. However, the Legislature
 115 recognizes that the authority of charter counties to impose such
 116 fees is in dispute, and the treatment provided in this section

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117 is not an expression of legislative intent that charter counties
118 actually do or do not possess such authority.

119 e. Actual permit fees relating to placing or maintaining
120 facilities in or on public roads or rights-of-way, collected
121 from providers of long-distance, cable, and mobile
122 communications services for the fiscal year ending September 30,
123 1999; however, if a municipality or charter county elects the
124 option to charge permit fees pursuant to s. 337.401(3)(c)
125 ~~337.401(3)(c)1.a.~~, such fees shall not be included as a replaced
126 revenue source.

127 2. With respect to all other counties and the taxes
128 authorized in s. 202.19(1), franchise fees on cable service
129 providers as authorized by 47 U.S.C. s. 542.

130 Section 2. Subsection (3), paragraphs (e) and (f) of
131 subsection (6), and paragraphs (b), (c), (d), (e), (f), (g), and
132 (i) of subsection (7) of section 337.401, Florida Statutes, are
133 amended, and subsection (8) is added to that section, to read:

134 337.401 Use of right-of-way for utilities subject to
135 regulation; permit; fees.-

136 (3) (a) Because of the unique circumstances applicable to
137 providers of communications services, including, but not limited
138 to, the circumstances described in paragraph (e) and the fact
139 that federal and state law require the nondiscriminatory
140 treatment of providers of telecommunications services, and
141 because of the desire to promote competition among providers of
142 communications services, it is the intent of the Legislature
143 that municipalities and counties treat providers of
144 communications services in a nondiscriminatory and competitively
145 neutral manner when imposing rules or regulations governing the

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146 placement or maintenance of communications facilities in the
147 public roads or rights-of-way. Rules or regulations imposed by a
148 municipality or county relating to providers of communications
149 services placing or maintaining communications facilities in its
150 roads or rights-of-way must be generally applicable to all
151 providers of communications services, taking into account the
152 distinct engineering, construction, operation, maintenance,
153 public works, and safety requirements of provider facilities,
154 and, notwithstanding any other law, may not require a provider
155 of communications services to apply for or enter into an
156 individual license, franchise, or other agreement with the
157 municipality or county as a condition of placing or maintaining
158 communications facilities in its roads or rights-of-way. In
159 addition to other reasonable rules or regulations that a
160 municipality or county may adopt relating to the placement or
161 maintenance of communications facilities in its roads or rights-
162 of-way under this subsection or subsection (7), a municipality
163 or county may require a provider of communications services that
164 places or seeks to place facilities in its roads or rights-of-
165 way to register with the municipality or county. To register, a
166 provider of communications services only may be required to
167 provide its name and to provide the name of the registrant; the
168 name, address, and telephone number of a contact person for the
169 registrant; the number of the registrant's current certificate
170 of authorization issued by the Florida Public Service
171 Commission, the Federal Communications Commission, or the
172 Department of State; and any required proof of insurance or
173 self-insuring status adequate to defend and cover claims. A
174 municipality or county may not require registration renewal more

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175 frequently than every 5 years, but may request that a provider
 176 submit any updates during this period if the registration
 177 information provided pursuant to this subsection changes. A
 178 municipality or county may not require the provision of an
 179 inventory of communications facilities, maps, locations of such
 180 facilities, or other information by a registrant as a condition
 181 of registration, renewal, or for any other purpose; provided,
 182 however, that a municipality or county may require as part of a
 183 permit application that the applicant identify at-grade
 184 communications facilities within 25 feet of the proposed
 185 installation location for the placement of at-grade
 186 communications facilities. A municipality or county may not
 187 require a provider to pay any fee, cost, or other charge for
 188 registration or renewal thereof. It is the intent of the
 189 Legislature that the placement, operation, maintenance,
 190 upgrading, and extension of communications facilities not be
 191 unreasonably interrupted or delayed through the permitting or
 192 other local regulatory process. Except as provided in this
 193 chapter or otherwise expressly authorized by chapter 202,
 194 chapter 364, or chapter 610, a municipality or county may not
 195 adopt or enforce any ordinance, regulation, or requirement as to
 196 the placement or operation of communications facilities in a
 197 right-of-way by a communications services provider authorized by
 198 state or local law to operate in a right-of-way; regulate any
 199 communications services; or impose or collect any tax, fee,
 200 cost, charge, or exaction for the provision of communications
 201 services over the communications services provider's
 202 communications facilities in a right-of-way.

203 (b) Registration described in paragraph (a) does not

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204 establish a right to place or maintain, or priority for the
 205 placement or maintenance of, a communications facility in roads
 206 or rights-of-way of a municipality or county. Each municipality
 207 and county retains the authority to regulate and manage
 208 municipal and county roads or rights-of-way in exercising its
 209 police power, subject to the limitations imposed in this section
 210 and chapters 202 and 610. Any rules or regulations adopted by a
 211 municipality or county which govern the occupation of its roads
 212 or rights-of-way by providers of communications services must be
 213 related to the placement or maintenance of facilities in such
 214 roads or rights-of-way, must be reasonable and
 215 nondiscriminatory, and may include only those matters necessary
 216 to manage the roads or rights-of-way of the municipality or
 217 county.

218 (c) Any municipality or county that, as of January 1, 2019,
 219 elected to require permit fees from any provider of
 220 communications services that uses or occupy municipal or county
 221 road or rights-of-way pursuant to former paragraph (c) or
 222 paragraph (j), Florida Statutes 2018, may continue to require
 223 and collect such fees. A municipality or county that elected as
 224 of such date to require permit fees may elect to forego such
 225 fees as provided herein. A municipality or county that elected
 226 as of such date not to require permit fees may not elect to
 227 impose permit fees.

228 ~~1. It is the intention of the state to treat all providers~~
 229 ~~of communications services that use or occupy municipal or~~
 230 ~~charter county roads or rights of way for the provision of~~
 231 ~~communications services in a nondiscriminatory and competitively~~
 232 ~~neutral manner with respect to the payment of permit fees.~~

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233 ~~Certain providers of communications services have been granted~~
 234 ~~by general law the authority to offset permit fees against~~
 235 ~~franchise or other fees while other providers of communications~~
 236 ~~services have not been granted this authority. In order to treat~~
 237 ~~all providers of communications services in a nondiscriminatory~~
 238 ~~and competitively neutral manner with respect to the payment of~~
 239 ~~permit fees, each municipality and charter county shall make an~~
 240 ~~election under either sub-subparagraph a. or sub-subparagraph b.~~
 241 ~~and must inform the Department of Revenue of the election by~~
 242 ~~certified mail by July 16, 2001. Such election shall take effect~~
 243 ~~October 1, 2001.~~

244 ~~a. (I) The municipality or charter county may require and~~
 245 ~~collect permit fees from any providers of communications~~
 246 ~~services that use or occupy municipal or county roads or rights-~~
 247 ~~of-way. All fees authorized permitted under this paragraph sub-~~
 248 ~~subparagraph must be reasonable and commensurate with the direct~~
 249 ~~and actual cost of the regulatory activity, including issuing~~
 250 ~~and processing permits, plan reviews, physical inspection, and~~
 251 ~~direct administrative costs; must be demonstrable; and must be~~
 252 ~~equitable among users of the roads or rights-of-way. A fee~~
 253 ~~authorized permitted under this paragraph sub-subparagraph may~~
 254 ~~not be offset against the tax imposed under chapter 202;~~
 255 ~~include the costs of roads or rights-of-way acquisition or roads~~
 256 ~~or rights-of-way rental; include any general administrative,~~
 257 ~~management, or maintenance costs of the roads or rights-of-way;~~
 258 ~~or be based on a percentage of the value or costs associated~~
 259 ~~with the work to be performed on the roads or rights-of-way. In~~
 260 ~~an action to recover amounts due for a fee not authorized~~
 261 ~~permitted under this paragraph sub-subparagraph, the prevailing~~

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262 party may recover court costs and attorney attorney's fees at
 263 trial and on appeal. In addition to the limitations set forth in
 264 this section, a fee levied by a municipality or charter county
 265 under this paragraph sub-subparagraph may not exceed \$100.
 266 However, permit fees may not be imposed with respect to permits
 267 that may be required for service drop lines not required to be
 268 noticed under s. 556.108(5) s. 556.108(5)(a)2. or for any
 269 activity that does not require the physical disturbance of the
 270 roads or rights-of-way or does not impair access to or full use
 271 of the roads or rights-of-way, including, but not limited to,
 272 any emergency repairs of existing facilities, extensions of such
 273 facilities for providing communications services to customers,
 274 and the placement of micro wireless facilities in accordance
 275 with subparagraph (7)(e)3.

276 ~~(II) To ensure competitive neutrality among providers of~~
 277 ~~communications services, for any municipality or charter county~~
 278 ~~that elects to exercise its authority to require and collect~~
 279 ~~permit fees under this sub-subparagraph, the rate of the local~~
 280 ~~communications services tax imposed by such jurisdiction, as~~
 281 ~~computed under s. 202.20, shall automatically be reduced by a~~
 282 ~~rate of 0.12 percent.~~

283 ~~b. Alternatively, the municipality or charter county may~~
 284 ~~elect not to require and collect permit fees from any provider~~
 285 ~~of communications services that uses or occupies municipal or~~
 286 ~~charter county roads or rights-of-way for the provision of~~
 287 ~~communications services; however, each municipality or charter~~
 288 ~~county that elects to operate under this sub-subparagraph~~
 289 ~~retains all authority to establish rules and regulations for~~
 290 ~~providers of communications services to use or occupy roads or~~

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291 ~~rights-of-way as provided in this section.~~

292 1. If a municipality or charter county elects to not
 293 ~~require permit fees operate under this sub-subparagraph,~~ the
 294 total rate for the local communications services tax as computed
 295 under s. 202.20 for that municipality or charter county may be
 296 increased by ordinance or resolution by an amount not to exceed
 297 a rate of 0.12 percent. ~~If a municipality or charter county~~
 298 ~~elects to increase its rate effective October 1, 2001, the~~
 299 ~~municipality or charter county shall inform the department of~~
 300 ~~such increased rate by certified mail postmarked on or before~~
 301 ~~July 16, 2001.~~

302 ~~c.~~ A municipality or charter county that does not make an
 303 election as provided for in this subparagraph shall be presumed
 304 to have elected to operate under the provisions of sub-
 305 subparagraph b.

306 2. Each noncharter county shall make an election under
 307 either sub-subparagraph a. or sub-subparagraph b. and shall
 308 inform the Department of Revenue of the election by certified
 309 mail by July 16, 2001. Such election shall take effect October
 310 1, 2001.

311 ~~a.~~ The noncharter county may elect to require and collect
 312 ~~permit fees from any providers of communications services that~~
 313 ~~use or occupy noncharter county roads or rights-of-way. All fees~~
 314 ~~permitted under this sub-subparagraph must be reasonable and~~
 315 ~~commensurate with the direct and actual cost of the regulatory~~
 316 ~~activity, including issuing and processing permits, plan~~
 317 ~~reviews, physical inspection, and direct administrative costs;~~
 318 ~~must be demonstrable; and must be equitable among users of the~~
 319 ~~roads or rights-of-way. A fee permitted under this sub-~~

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320 ~~subparagraph may not: be offset against the tax imposed under~~
 321 ~~chapter 202; include the costs of roads or rights-of-way~~
 322 ~~acquisition or roads or rights-of-way rental; include any~~
 323 ~~general administrative, management, or maintenance costs of the~~
 324 ~~roads or rights of way; or be based on a percentage of the value~~
 325 ~~or costs associated with the work to be performed on the roads~~
 326 ~~or rights-of-way. In an action to recover amounts due for a fee~~
 327 ~~not permitted under this sub-subparagraph, the prevailing party~~
 328 ~~may recover court costs and attorney's fees at trial and on~~
 329 ~~appeal. In addition to the limitations set forth in this~~
 330 ~~section, a fee levied by a noncharter county under this sub-~~
 331 ~~subparagraph may not exceed \$100. However, permit fees may not~~
 332 ~~be imposed with respect to permits that may be required for~~
 333 ~~service drop lines not required to be noticed under s.~~
 334 ~~556.108(5)(a)2. or for any activity that does not require the~~
 335 ~~physical disturbance of the roads or rights-of-way or does not~~
 336 ~~impair access to or full use of the roads or rights-of-way.~~

337 b. Alternatively, the noncharter county may elect not to
 338 require and collect permit fees from any provider of
 339 communications services that uses or occupies noncharter county
 340 roads or rights-of-way for the provision of communications
 341 services; however, each noncharter county that elects to operate
 342 under this sub-subparagraph shall retain all authority to
 343 establish rules and regulations for providers of communications
 344 services to use or occupy roads or rights-of-way as provided in
 345 this section.

346 2. If a noncharter county elects to not require permit fees
 347 ~~operate under this sub-subparagraph,~~ the total rate for the
 348 local communications services tax as computed under s. 202.20

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349 for that noncharter county may be increased by ordinance or
 350 resolution by an amount not to exceed a rate of 0.24 percent, to
 351 replace the revenue the noncharter county would otherwise have
 352 received from permit fees for providers of communications
 353 services. ~~If a noncharter county elects to increase its rate~~
 354 ~~effective October 1, 2001, the noncharter county shall inform~~
 355 ~~the department of such increased rate by certified mail~~
 356 ~~postmarked on or before July 16, 2001.~~

357 ~~e. A noncharter county that does not make an election as~~
 358 ~~provided for in this subparagraph shall be presumed to have~~
 359 ~~elected to operate under the provisions of sub-subparagraph b.~~

360 ~~3. Except as provided in this paragraph, municipalities and~~
 361 ~~counties retain all existing authority to require and collect~~
 362 ~~permit fees from users or occupants of municipal or county roads~~
 363 ~~or rights-of-way and to set appropriate permit fee amounts.~~

364 ~~(d) After January 1, 2001,~~ In addition to any other notice
 365 requirements, a municipality must provide to the Secretary of
 366 State, at least 10 days prior to consideration on first reading,
 367 notice of a proposed ordinance governing a telecommunications
 368 company placing or maintaining telecommunications facilities in
 369 its roads or rights-of-way. ~~After January 1, 2001,~~ In addition
 370 to any other notice requirements, a county must provide to the
 371 Secretary of State, at least 15 days prior to consideration at a
 372 public hearing, notice of a proposed ordinance governing a
 373 telecommunications company placing or maintaining
 374 telecommunications facilities in its roads or rights-of-way. The
 375 notice required by this paragraph must be published by the
 376 Secretary of State on a designated Internet website. The failure
 377 of a municipality or county to provide such notice does not

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378 render the ordinance invalid, provided that enforcement of such
 379 ordinance must be suspended until 30 days after the municipality
 380 or county provides the required notice.

381 (e) The authority of municipalities and counties to require
 382 franchise fees from providers of communications services, with
 383 respect to the provision of communications services, is
 384 specifically preempted by the state because of unique
 385 circumstances applicable to providers of communications services
 386 when compared to other utilities occupying municipal or county
 387 roads or rights-of-way. Providers of communications services may
 388 provide similar services in a manner that requires the placement
 389 of facilities in municipal or county roads or rights-of-way or
 390 in a manner that does not require the placement of facilities in
 391 such roads or rights-of-way. Although similar communications
 392 services may be provided by different means, the state desires
 393 to treat providers of communications services in a
 394 nondiscriminatory manner and to have the taxes, franchise fees,
 395 and other fees, costs, and financial or regulatory exactions
 396 paid by or imposed on providers of communications services be
 397 competitively neutral. Municipalities and counties retain all
 398 existing authority, if any, to collect franchise fees from users
 399 or occupants of municipal or county roads or rights-of-way other
 400 than providers of communications services, and the provisions of
 401 this subsection shall have no effect upon this authority. The
 402 provisions of this subsection do not restrict the authority, if
 403 any, of municipalities or counties or other governmental
 404 entities to receive reasonable rental fees based on fair market
 405 value for the use of public lands and buildings on property
 406 outside the public roads or rights-of-way for the placement of

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407 communications antennas and towers.

408 (f) Except as expressly allowed or authorized by general
 409 law and except for the rights-of-way permit fees subject to
 410 paragraph (c), a municipality or county may not levy on a
 411 provider of communications services a tax, fee, or other charge
 412 or imposition for operating as a provider of communications
 413 services within the jurisdiction of the municipality or county
 414 which is in any way related to using its roads or rights-of-way.
 415 A municipality or county may not require or solicit in-kind
 416 compensation, except as otherwise provided in s. 202.24(2)(c)8.
 417 or s. 610.109, provided that the in-kind compensation is not a
 418 franchise fee under federal law. Nothing in this paragraph shall
 419 impair any ordinance or agreement in effect on May 22, 1998, or
 420 any voluntary agreement entered into subsequent to that date,
 421 which provides for or allows in-kind compensation by a
 422 telecommunications company.

423 (g) A municipality or county may not use its authority over
 424 the placement of facilities in its roads and rights-of-way as a
 425 basis for asserting or exercising regulatory control over a
 426 provider of communications services regarding matters within the
 427 exclusive jurisdiction of the Florida Public Service Commission
 428 or the Federal Communications Commission, including, but not
 429 limited to, the operations, systems, equipment, technology,
 430 qualifications, services, service quality, service territory,
 431 and prices of a provider of communications services. A
 432 municipality or county may not require any permit for the
 433 maintenance, repair, replacement, or upgrade of existing aerial
 434 wireline communications facilities on utility poles or for
 435 aerial wireline facilities between existing wireline

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436 communications facility attachments on utility poles by a
 437 communications services provider; provided, however, that a
 438 municipality or county may require a right-of-way permit for
 439 work that involves excavation, closure of a sidewalk, or closure
 440 of a vehicular lane, unless the provider is making emergency
 441 restoration or repair work to existing facilities. Any permit
 442 application required by an authority under this section for the
 443 placement of communications facilities must be processed and
 444 acted upon consistent with the timeframes provided in
 445 subparagraphs (7)(d)7.-9. In addition, a municipality or county
 446 may not require any permit or other approval, fee, charge, or
 447 cost, or other exaction for the maintenance, repair,
 448 replacement, or upgrade of existing aerial or underground
 449 communications facilities located on private property outside of
 450 the public rights-of-way.

451 (h) A provider of communications services that has obtained
 452 permission to occupy the roads or rights-of-way of an
 453 incorporated municipality pursuant to s. 362.01 or that is
 454 otherwise lawfully occupying the roads or rights-of-way of a
 455 municipality or county shall not be required to obtain consent
 456 to continue such lawful occupation of those roads or rights-of-
 457 way; however, nothing in this paragraph shall be interpreted to
 458 limit the power of a municipality or county to adopt or enforce
 459 reasonable rules or regulations as provided in this section and
 460 consistent with chapters 202, 364, and 610. Any such rules or
 461 regulations must be in writing, and registered providers of
 462 communications services in the municipality or county must be
 463 given at least 60 days' advance written notice of any changes to
 464 the rules and regulations.

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465 (i) Except as expressly provided in this section, this
 466 section does not modify the authority of municipalities and
 467 counties to levy the tax authorized in chapter 202 or the duties
 468 of providers of communications services under ss. 337.402-
 469 337.404. This section does not apply to building permits, pole
 470 attachments, or private roads, private easements, and private
 471 rights-of-way.

472 (j) Pursuant to this paragraph, any county or municipality
 473 may by ordinance change either its election made on or before
 474 July 16, 2001, under paragraph (c) or an election made under
 475 this paragraph.

476 1.a. If a municipality or charter county changes its
 477 election under this paragraph in order to exercise its authority
 478 to require and collect permit fees in accordance with this
 479 subsection, the rate of the local communications services tax
 480 imposed by such jurisdiction pursuant to ss. 202.19 and 202.20
 481 shall automatically be reduced by the sum of 0.12 percent plus
 482 the percentage, if any, by which such rate was increased
 483 pursuant to sub-subparagraph (c)1.b.

484 b. If a municipality or charter county changes its election
 485 under this paragraph in order to discontinue requiring and
 486 collecting permit fees, the rate of the local communications
 487 services tax imposed by such jurisdiction pursuant to ss. 202.19
 488 and 202.20 may be increased by ordinance or resolution by an
 489 amount not to exceed 0.24 percent.

490 2.a. If a noncharter county changes its election under this
 491 paragraph in order to exercise its authority to require and
 492 collect permit fees in accordance with this subsection, the rate
 493 of the local communications services tax imposed by such

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494 ~~jurisdiction pursuant to ss. 202.19 and 202.20 shall~~
 495 ~~automatically be reduced by the percentage, if any, by which~~
 496 ~~such rate was increased pursuant to sub-subparagraph (c)2.b.~~

497 ~~b. If a noncharter county changes its election under this~~
 498 ~~paragraph in order to discontinue requiring and collecting~~
 499 ~~permit fees, the rate of the local communications services tax~~
 500 ~~imposed by such jurisdiction pursuant to ss. 202.19 and 202.20~~
 501 ~~may be increased by ordinance or resolution by an amount not to~~
 502 ~~exceed 0.24 percent.~~

503 3.a. Any change of election pursuant to this paragraph and
 504 any tax rate change resulting from such change of election shall
 505 be subject to the notice requirements of s. 202.21; however, no
 506 such change of election shall become effective prior to January
 507 1, 2003.

508 b. Any county or municipality changing its election under
 509 this paragraph in order to exercise its authority to require and
 510 collect permit fees shall, in addition to complying with the
 511 notice requirements under s. 202.21, provide to all dealers
 512 providing communications services in such jurisdiction written
 513 notice of such change of election by September 1 immediately
 514 preceding the January 1 on which such change of election becomes
 515 effective. For purposes of this sub-subparagraph, dealers
 516 providing communications services in such jurisdiction shall
 517 include every dealer reporting tax to such jurisdiction pursuant
 518 to s. 202.37 on the return required under s. 202.27 to be filed
 519 on or before the 20th day of May immediately preceding the
 520 January 1 on which such change of election becomes effective.

521 ~~(*)~~ Notwithstanding the provisions of s. 202.19, when a
 522 local communications services tax rate is changed as a result of

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523 an election made or changed under this subsection, such rate may
 524 ~~shall~~ not be rounded to tenths.

525 (6)

526 (e) This subsection does not alter any provision of this
 527 section or s. 202.24 relating to taxes, fees, or other charges
 528 or impositions by a municipality or county on a dealer of
 529 communications services or authorize that any charges be
 530 assessed on a dealer of communications services, except as
 531 specifically set forth herein. A municipality or county may not
 532 charge a pass-through provider any amounts other than the
 533 charges under this subsection as a condition to the placement or
 534 maintenance of a communications facility in the roads or rights-
 535 of-way of a municipality or county by a pass-through provider,
 536 except that a municipality or county may impose permit fees on a
 537 pass-through provider consistent with paragraph (3) (c) if the
 538 ~~municipality or county elects to exercise its authority to~~
 539 ~~collect permit fees under paragraph (3) (c).~~

540 (f) The charges under this subsection do not apply to
 541 communications facilities placed in a municipality's or county's
 542 rights-of-way prior to the effective date of this subsection
 543 with permission from the municipality or county, if any was
 544 required, except to the extent the facilities of a pass-through
 545 provider were subject to per linear foot or mile charges in
 546 effect as of October 1, 2001, in which case the municipality or
 547 county may only impose on a pass-through provider charges
 548 consistent with paragraph (b) or paragraph (c) for such
 549 facilities. Notwithstanding the foregoing, this subsection does
 550 not impair any written agreement between a pass-through provider
 551 and a municipality or county imposing per linear foot or mile

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552 charges for communications facilities placed in municipal or
 553 county roads or rights-of-way that is in effect prior to the
 554 effective date of this subsection. Upon the termination or
 555 expiration of any such written agreement, any charges imposed
 556 must ~~shall~~ be consistent with this section paragraph (b) or
 557 ~~paragraph (c). Notwithstanding the foregoing, until October 1,~~
 558 ~~2005, this subsection shall not affect a municipality or county~~
 559 ~~continuing to impose charges in excess of the charges authorized~~
 560 ~~in this subsection on facilities of a pass-through provider that~~
 561 ~~is not a dealer of communications services in the state under~~
 562 ~~chapter 202, but only to the extent such charges were imposed by~~
 563 ~~municipal or county ordinance or resolution adopted prior to~~
 564 ~~February 1, 2002. Effective October 1, 2005, any charges imposed~~
 565 ~~shall be consistent with paragraph (b) or paragraph (c).~~

566 (7)

567 (b) As used in this subsection, the term:

568 1. "Antenna" means communications equipment that transmits
 569 or receives electromagnetic radio frequency signals used in
 570 providing wireless services.

571 2. "Applicable codes" means uniform building, fire,
 572 electrical, plumbing, or mechanical codes adopted by a
 573 recognized national code organization or local amendments to
 574 those codes enacted solely to address threats of destruction of
 575 property or injury to persons, ~~or local codes or ordinances~~
 576 ~~adopted to implement this subsection. The term includes~~
 577 ~~objective design standards adopted by ordinance that may require~~
 578 ~~a new utility pole that replaces an existing utility pole to be~~
 579 ~~of substantially similar design, material, and color or that may~~
 580 ~~require reasonable spacing requirements concerning the location~~

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581 ~~of ground-mounted equipment. The term includes objective design~~
 582 ~~standards adopted by ordinance that may require a small wireless~~
 583 ~~facility to meet reasonable location context, color, stealth,~~
 584 ~~and concealment requirements; however, such design standards may~~
 585 ~~be waived by the authority upon a showing that the design~~
 586 ~~standards are not reasonably compatible for the particular~~
 587 ~~location of a small wireless facility or that the design~~
 588 ~~standards impose an excessive expense. The waiver shall be~~
 589 ~~granted or denied within 45 days after the date of the request.~~

590 3. "Applicant" means a person who submits an application
 591 and is a wireless provider.

592 4. "Application" means a request submitted by an applicant
 593 to an authority for a permit to collocate small wireless
 594 facilities or to place a new utility pole used to support a
 595 small wireless facility.

596 5. "Authority" means a county or municipality having
 597 jurisdiction and control of the rights-of-way of any public
 598 road. The term does not include the Department of
 599 Transportation. Rights-of-way under the jurisdiction and control
 600 of the department are excluded from this subsection.

601 6. "Authority utility pole" means a utility pole owned by
 602 an authority in the right-of-way. The term does not include a
 603 utility pole owned by a municipal electric utility, a utility
 604 pole used to support municipally owned or operated electric
 605 distribution facilities, or a utility pole located in the right-
 606 of-way within:

607 a. A retirement community that:

608 (I) Is deed restricted as housing for older persons as
 609 defined in s. 760.29(4)(b);

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610 (II) Has more than 5,000 residents; and
 611 (III) Has underground utilities for electric transmission
 612 or distribution.
 613 b. A municipality that:
 614 (I) Is located on a coastal barrier island as defined in s.
 615 161.053(1)(b)3.;
 616 (II) Has a land area of less than 5 square miles;
 617 (III) Has less than 10,000 residents; and
 618 (IV) Has, before July 1, 2017, received referendum approval
 619 to issue debt to finance municipal-wide undergrounding of its
 620 utilities for electric transmission or distribution.
 621 7. "Collocate" or "collocation" means to install, mount,
 622 maintain, modify, operate, or replace one or more wireless
 623 facilities on, under, within, or adjacent to a wireless support
 624 structure or utility pole. The term does not include the
 625 installation of a new utility pole or wireless support structure
 626 in the public rights-of-way.
 627 8. "FCC" means the Federal Communications Commission.
 628 9. "Micro wireless facility" means a small wireless
 629 facility having dimensions no larger than 24 inches in length,
 630 15 inches in width, and 12 inches in height and an exterior
 631 antenna, if any, no longer than 11 inches.
 632 10. "Small wireless facility" means a wireless facility
 633 that meets the following qualifications:
 634 a. Each antenna associated with the facility is located
 635 inside an enclosure of no more than 6 cubic feet in volume or,
 636 in the case of antennas that have exposed elements, each antenna
 637 and all of its exposed elements could fit within an enclosure of
 638 no more than 6 cubic feet in volume; and

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639 b. All other wireless equipment associated with the
 640 facility is cumulatively no more than 28 cubic feet in volume.
 641 The following types of associated ancillary equipment are not
 642 included in the calculation of equipment volume: electric
 643 meters, concealment elements, telecommunications demarcation
 644 boxes, ground-based enclosures, grounding equipment, power
 645 transfer switches, cutoff switches, vertical cable runs for the
 646 connection of power and other services, and utility poles or
 647 other support structures.

648 11. "Utility pole" means a pole or similar structure that
 649 is used in whole or in part to provide communications services
 650 or for electric distribution, lighting, traffic control,
 651 signage, or a similar function. The term includes the vertical
 652 support structure for traffic lights but does not include a
 653 horizontal structure to which signal lights or other traffic
 654 control devices are attached and does not include a pole or
 655 similar structure 15 feet in height or less unless an authority
 656 grants a waiver for such pole.

657 12. "Wireless facility" means equipment at a fixed location
 658 which enables wireless communications between user equipment and
 659 a communications network, including radio transceivers,
 660 antennas, wires, coaxial or fiber-optic cable or other cables,
 661 regular and backup power supplies, and comparable equipment,
 662 regardless of technological configuration, and equipment
 663 associated with wireless communications. The term includes small
 664 wireless facilities. The term does not include:

- 665 a. The structure or improvements on, under, within, or
 666 adjacent to the structure on which the equipment is collocated;
 667 b. Wireline backhaul facilities; or

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668 c. Coaxial or fiber-optic cable that is between wireless
 669 structures or utility poles or that is otherwise not immediately
 670 adjacent to or directly associated with a particular antenna.

671 13. "Wireless infrastructure provider" means a person who
 672 has been certificated under chapter 364 to provide
 673 telecommunications service ~~in the state~~ or under chapter 610 to
 674 provide cable or video services in this state, or that person's
 675 affiliate, and who builds or installs wireless communication
 676 transmission equipment, wireless facilities, or wireless support
 677 structures but is not a wireless services provider.

678 14. "Wireless provider" means a wireless infrastructure
 679 provider or a wireless services provider.

680 15. "Wireless services" means any services provided using
 681 licensed or unlicensed spectrum, whether at a fixed location or
 682 mobile, using wireless facilities.

683 16. "Wireless services provider" means a person who
 684 provides wireless services.

685 17. "Wireless support structure" means a freestanding
 686 structure, such as a monopole, a guyed or self-supporting tower,
 687 or another existing or proposed structure designed to support or
 688 capable of supporting wireless facilities. The term does not
 689 include a utility pole, pedestal, or other support structure for
 690 ground-based equipment not mounted on a utility pole and less
 691 than 10 feet in height.

692 (c) Except as provided in this subsection, an authority may
 693 not prohibit, regulate, or charge for the collocation of small
 694 wireless facilities in the public rights-of-way or for the
 695 installation, maintenance, modification, operation, or
 696 replacement of utility poles used for the collocation of small

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697 wireless facilities in the public rights-of-way.

698 (d) An authority may require a registration process and
699 permit fees in accordance with subsection (3). An authority
700 shall accept applications for permits and shall process and
701 issue permits subject to the following requirements:

702 1. An authority may not directly or indirectly require an
703 applicant to perform services unrelated to the collocation for
704 which approval is sought, such as in-kind contributions to the
705 authority, including reserving fiber, conduit, or pole space for
706 the authority.

707 2. An applicant may not be required to provide more
708 information to obtain a permit than is necessary to demonstrate
709 the applicant's compliance with applicable codes for the
710 placement of small wireless facilities in the locations
711 identified in the application. An applicant may not be required
712 to provide inventories, maps, or locations of communications
713 facilities in the right-of-way other than as necessary to avoid
714 interference with other at-grade facilities located at the
715 specific location proposed for a small wireless facility or
716 within 25 feet of such location.

717 3. An authority may not:

718 a. Require the placement of small wireless facilities on
719 any specific utility pole or category of poles; ~~or~~

720 b. Require the placement of multiple antenna systems on a
721 single utility pole;

722 c. Require a demonstration that collocation of a small
723 wireless facility on an existing structure is not legally or
724 technically possible as a condition for granting a permit for
725 the collocation of a small wireless facility on a new utility

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726 pole;

727 d. Require compliance with an authority's provisions
728 regarding placement of small wireless facilities or a new
729 utility pole used to support a small wireless facility in
730 rights-of-way under the control of the department, unless the
731 authority has received a delegation from the department for the
732 location of the small wireless facility or utility pole; or
733 require such compliance as a condition to receive a permit that
734 is ancillary to the permit for collocation of a small wireless
735 facility, including an electrical permit;

736 e. Require a meeting before filing an application;

737 f. Require direct or indirect public notification or a
738 public meeting for the placement of communication facilities in
739 the right-of-way;

740 g. Limit the size or configuration of a small wireless
741 facility or any of its components, if the small wireless
742 facility complies with the size limits in this subsection;

743 h. Prohibit the installation of a new utility pole used to
744 support the collocation of a small wireless facility if the
745 installation otherwise meets the requirements of this
746 subsection;

747 i. Require that any component of a small wireless facility
748 be placed underground; or

749 j. Require that any existing communication facility be
750 placed underground, except as provided in ss. 337.403 and
751 337.404.

752 4. Subject to sub-subparagraph (f)6.b., an authority may
753 not limit the placement, by minimum separation distances, of
754 small wireless facilities, utility poles on which small wireless

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755 facilities are or will be collocated, or other at-grade
 756 communications facilities ~~by minimum separation distances.~~
 757 However, within 14 days after the date of filing the
 758 application, an authority may request that the proposed location
 759 of a small wireless facility be moved to another location in the
 760 right-of-way and placed on an alternative authority utility pole
 761 or support structure or placed on ~~may place~~ a new utility pole.
 762 The authority and the applicant may negotiate the alternative
 763 location, including any objective design standards and
 764 reasonable spacing requirements for ground-based equipment, for
 765 30 days after the date of the request. At the conclusion of the
 766 negotiation period, if the alternative location is accepted by
 767 the applicant, the applicant must notify the authority of such
 768 acceptance and the application shall be deemed granted for any
 769 new location for which there is agreement and all other
 770 locations in the application. If an agreement is not reached,
 771 the applicant must notify the authority of such nonagreement and
 772 the authority must grant or deny the original application within
 773 90 days after the date the application was filed. A request for
 774 an alternative location, an acceptance of an alternative
 775 location, or a rejection of an alternative location must be in
 776 writing and provided by electronic mail.

777 5. An authority shall limit the height of a small wireless
 778 facility to 10 feet above the utility pole or structure upon
 779 which the small wireless facility is to be collocated. Unless
 780 waived by an authority, the height for a new utility pole is
 781 limited to the tallest existing utility pole as of July 1, 2017,
 782 located in the same right-of-way, other than a utility pole for
 783 which a waiver has previously been granted, measured from grade

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784 in place within 500 feet of the proposed location of the small
 785 wireless facility. If there is no utility pole within 500 feet,
 786 the authority shall limit the height of the utility pole to 50
 787 feet.

788 6. ~~Except as provided in subparagraphs 4. and 5.,~~ The
 789 installation by a communications services provider of a utility
 790 pole in the public rights-of-way, other than a utility pole used
 791 ~~designed~~ to support a small wireless facility, is shall be
 792 subject to authority rules or regulations governing the
 793 placement of utility poles in the public rights-of-way and is
 794 ~~shall be~~ subject to the application review timeframes in this
 795 subsection.

796 7. Within 14 days after receiving an application, an
 797 authority must determine and notify the applicant by electronic
 798 mail as to whether the application is complete. If an
 799 application is deemed incomplete, the authority must
 800 specifically identify the missing information. An application is
 801 deemed complete if the authority fails to provide notification
 802 to the applicant within 14 days.

803 8. An application must be processed on a nondiscriminatory
 804 basis. A complete application is deemed approved if an authority
 805 fails to approve or deny the application within 60 days after
 806 receipt of the application. If an authority does not use the 30-
 807 day negotiation period provided in subparagraph 4., the parties
 808 may mutually agree to extend the 60-day application review
 809 period. The authority shall grant or deny the application at the
 810 end of the extended period. A permit issued pursuant to an
 811 approved application shall remain effective for 1 year unless
 812 extended by the authority.

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813 9. An authority must notify the applicant of approval or
 814 denial by electronic mail. An authority shall approve a complete
 815 application unless it does not meet the authority's applicable
 816 codes. If the application is denied, the authority must specify
 817 in writing the basis for denial, including the specific code
 818 provisions on which the denial was based, and send the
 819 documentation to the applicant by electronic mail on the day the
 820 authority denies the application. The applicant may cure the
 821 deficiencies identified by the authority and resubmit the
 822 application within 30 days after notice of the denial is sent to
 823 the applicant. The authority shall approve or deny the revised
 824 application within 30 days after receipt or the application is
 825 deemed approved. The review of a revised application is Any
 826 subsequent review shall be limited to the deficiencies cited in
 827 the denial. The availability of any subsequent review by the
 828 authority does not bar review of a denial in a court of
 829 competent jurisdiction.

830 10. An applicant seeking to collocate small wireless
 831 facilities within the jurisdiction of a single authority may, at
 832 the applicant's discretion, file a consolidated application and
 833 receive a single permit for the collocation of up to 30 small
 834 wireless facilities. If the application includes multiple small
 835 wireless facilities, an authority may separately address small
 836 wireless facility collocations for which incomplete information
 837 has been received or which are denied.

838 11. An authority may deny a proposed collocation of a small
 839 wireless facility in the public rights-of-way if the proposed
 840 collocation:

841 a. Materially interferes with the safe operation of traffic

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842 control equipment.

843 b. Materially interferes with sight lines or clear zones
 844 for transportation, pedestrians, or public safety purposes.

845 c. Materially interferes with compliance with the Americans
 846 with Disabilities Act or similar federal or state standards
 847 regarding pedestrian access or movement.

848 d. Materially fails to comply with the 2010 edition of the
 849 Florida Department of Transportation Utility Accommodation
 850 Manual.

851 e. Fails to comply with applicable codes.

852 f. Fails to comply with objective design standards
 853 authorized under subparagraph (f)6.

854 12. An authority may adopt by ordinance provisions for
 855 insurance coverage, indemnification, ~~performance bonds, security~~
 856 ~~funds~~, force majeure, abandonment, authority liability, or
 857 authority warranties. Such provisions must be reasonable and
 858 nondiscriminatory. An authority may require a construction bond
 859 to secure restoration of the postconstruction rights-of-way to
 860 its preconstruction condition. However, such bond must be time-
 861 limited to no more than 1 year after the construction to which
 862 the bond applies is completed. For any financial obligation
 863 required by an authority allowed under this section, the
 864 authority shall accept a letter of credit or similar financial
 865 instrument issued by any financial institution that is
 866 authorized to do business within the United States, provided
 867 that a claim against the financial instrument may be made by
 868 electronic means, including by facsimile. A provider of
 869 communications services may add an authority to any existing
 870 bond, insurance policy, or other relevant financial instrument,

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871 and the authority must accept such proof of coverage without any
 872 conditions. An authority may not require a communications
 873 services provider to indemnify it for liabilities not caused by
 874 the provider, including liabilities arising from the authority's
 875 negligence, gross negligence, or willful conduct.

876 13. Collocation of a small wireless facility on an
 877 authority utility pole does not provide the basis for the
 878 imposition of an ad valorem tax on the authority utility pole.

879 14. An authority may reserve space on authority utility
 880 poles for future public safety uses. However, a reservation of
 881 space may not preclude collocation of a small wireless facility.
 882 If replacement of the authority utility pole is necessary to
 883 accommodate the collocation of the small wireless facility and
 884 the future public safety use, the pole replacement is subject to
 885 make-ready provisions and the replaced pole shall accommodate
 886 the future public safety use.

887 15. A structure granted a permit and installed pursuant to
 888 this subsection shall comply with chapter 333 and federal
 889 regulations pertaining to airport airspace protections.

890 (e) An authority may not require any permit or other
 891 approval or require fees, ~~or other~~ charges, costs, or other
 892 exactions for:

893 1. Routine maintenance or repair work, including, but not
 894 limited to, emergency repairs of existing facilities, or
 895 extensions of such facilities, for providing communications
 896 services to customers;

897 2. Replacement of existing wireless facilities with
 898 wireless facilities that are substantially similar or of the
 899 same or smaller size; or

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900 3. Installation, placement, maintenance, or replacement of
 901 micro wireless facilities that are suspended on cables strung
 902 between existing utility poles in compliance with applicable
 903 codes by or for a communications services provider authorized to
 904 occupy the rights-of-way and who is remitting taxes under
 905 chapter 202. An authority may require an initial letter from or
 906 on behalf of such provider, which is effective upon filing,
 907 attesting that the micro wireless facility dimensions comply
 908 with the limits of this subsection. The authority may not
 909 require any additional filing or other information as long as
 910 the provider is deploying the same, a substantially similar, or
 911 a smaller size micro wireless facility equipment.

912
 913 Notwithstanding this paragraph, an authority may require a
 914 right-of-way permit for work that involves excavation, closure
 915 of a sidewalk, or closure of a vehicular lane unless the
 916 provider is making emergency restoration or repair work to
 917 existing facilities.

918 (f) Collocation of small wireless facilities on authority
 919 utility poles is subject to the following requirements:

920 1. An authority may not enter into an exclusive arrangement
 921 with any person for the right to attach equipment to authority
 922 utility poles.

923 2. The rates and fees for collocations on authority utility
 924 poles must be nondiscriminatory, regardless of the services
 925 provided by the collocating person.

926 3. The rate to collocate small wireless facilities on an
 927 authority utility pole may not exceed \$150 per pole annually.

928 4. Agreements between authorities and wireless providers

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929 that are in effect on July 1, 2017, and that relate to the
 930 collocation of small wireless facilities in the right-of-way,
 931 including the collocation of small wireless facilities on
 932 authority utility poles, remain in effect, subject to applicable
 933 termination provisions. The wireless provider may accept the
 934 rates, fees, and terms established under this subsection for
 935 small wireless facilities and utility poles that are the subject
 936 of an application submitted after the rates, fees, and terms
 937 become effective.

938 5. A person owning or controlling an authority utility pole
 939 shall offer rates, fees, and other terms that comply with this
 940 subsection. By the later of January 1, 2018, or 3 months after
 941 receiving a request to collocate its first small wireless
 942 facility on a utility pole owned or controlled by an authority,
 943 the person owning or controlling the authority utility pole
 944 shall make available, through ordinance or otherwise, rates,
 945 fees, and terms for the collocation of small wireless facilities
 946 on the authority utility pole which comply with this subsection.

947 a. The rates, fees, and terms must be nondiscriminatory and
 948 competitively neutral and must comply with this subsection.

949 b. For an authority utility pole that supports an aerial
 950 facility used to provide communications services or electric
 951 service, the parties shall comply with the process for make-
 952 ready work under 47 U.S.C. s. 224 and implementing regulations.
 953 The good faith estimate of the person owning or controlling the
 954 pole for any make-ready work necessary to enable the pole to
 955 support the requested collocation must include pole replacement
 956 if necessary.

957 c. For an authority utility pole that does not support an

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958 aerial facility used to provide communications services or
 959 electric service, the authority shall provide a good faith
 960 estimate for any make-ready work necessary to enable the pole to
 961 support the requested collocation, including necessary pole
 962 replacement, within 60 days after receipt of a complete
 963 application. Make-ready work, including any pole replacement,
 964 must be completed within 60 days after written acceptance of the
 965 good faith estimate by the applicant. Alternatively, an
 966 authority may require the applicant seeking to collocate a small
 967 wireless facility to provide a make-ready estimate at the
 968 applicant's expense for the work necessary to support the small
 969 wireless facility, including pole replacement, and perform the
 970 make-ready work. If pole replacement is required, the scope of
 971 the make-ready estimate is limited to the design, fabrication,
 972 and installation of a utility pole that is substantially similar
 973 in color and composition. The authority may not condition or
 974 restrict the manner in which the applicant obtains, develops, or
 975 provides the estimate or conducts the make-ready work subject to
 976 usual construction restoration standards for work in the right-
 977 of-way. The replaced or altered utility pole shall remain the
 978 property of the authority.

979 d. An authority may not require more make-ready work than
 980 is required to meet applicable codes or industry standards. Fees
 981 for make-ready work may not include costs related to preexisting
 982 damage or prior noncompliance. Fees for make-ready work,
 983 including any pole replacement, may not exceed actual costs or
 984 the amount charged to communications services providers other
 985 than wireless services providers for similar work and may not
 986 include any consultant fee or expense.

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987 6. An authority may require wireless providers to comply
 988 with objective design standards adopted by ordinance. The
 989 ordinance may require:
 990 a. A new utility pole that replaces an existing utility
 991 pole to be of substantially similar design, material, and color;
 992 b. Reasonable spacing requirements concerning the location
 993 of a ground-mounted component of a small wireless facility which
 994 does not exceed 15 feet from the associated support structure;
 995 or
 996 c. A small wireless facility to meet reasonable location
 997 context, color, camouflage, and concealment requirements,
 998 subject to the limitations in this subsection.
 999
 1000 Such design standards under this subparagraph may be waived by
 1001 the authority upon a showing that the design standards are not
 1002 reasonably compatible for the particular location of a small
 1003 wireless facility or are technically infeasible or that the
 1004 design standards impose an excessive expense. The waiver must be
 1005 granted or denied within 45 days after the date of the request.
 1006 (g) For any applications filed before the effective date of
 1007 ordinances implementing this subsection, an authority may apply
 1008 current ordinances relating to placement of communications
 1009 facilities in the right-of-way related to registration,
 1010 permitting, insurance coverage, indemnification, ~~performance~~
 1011 ~~bonds, security funds,~~ force majeure, abandonment, authority
 1012 liability, or authority warranties. Permit application
 1013 requirements and small wireless facility placement requirements,
 1014 including utility pole height limits, that conflict with this
 1015 subsection ~~must shall~~ be waived by the authority. An authority

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1016 may not institute, either expressly or de facto, a moratorium,
 1017 zoning-in-progress, or other mechanism that would prohibit or
 1018 delay the filing, receiving, or processing of registrations,
 1019 applications, or issuing of permits or other approvals for the
 1020 collocation of small wireless facilities or the installation,
 1021 modification, or replacement of utility poles used to support
 1022 the collocation of small wireless facilities.
 1023 ~~(i) A wireless provider shall, in relation to a small~~
 1024 ~~wireless facility, utility pole, or wireless support structure~~
 1025 ~~in the public rights-of-way, comply with nondiscriminatory~~
 1026 ~~undergrounding requirements of an authority that prohibit above-~~
 1027 ~~ground structures in public rights of way. Any such requirements~~
 1028 ~~may be waived by the authority.~~
 1029 (8) (a) Any person aggrieved by a violation of this section
 1030 may bring a civil action in a United States District Court or in
 1031 any other court of competent jurisdiction.
 1032 (b) The court may:
 1033 1. Grant temporary or permanent injunctions on terms as it
 1034 may deem reasonable to prevent or restrain violations of this
 1035 section; and
 1036 2. Direct the recovery of full costs, including awarding
 1037 reasonable attorney fees, to the party who prevails.
 1038 Section 3. This act shall take effect July 1, 2019.

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**The Florida Senate
COMMITTEE VOTE RECORD**

COMMITTEE: Finance and Tax
ITEM: CS/CS/SB 1000
FINAL ACTION: Favorable
MEETING DATE: Tuesday, April 9, 2019
TIME: 4:00—6:00 p.m.
PLACE: 401 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
X		Bracy						
X		Bradley						
	X	Pizzo						
	X	Powell						
X		Stargel						
X		Gruters, VICE CHAIR						
		Gainer, CHAIR						
5	2	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



The Florida Senate

Committee Agenda Request

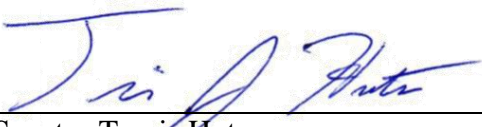
To: Senator George Gainer, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: April 2, 2019

I respectfully request that **Senate Bill #1000**, relating to Communications Services, be placed on the:

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



Senator Travis Hutson
Florida Senate, District 7

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/2019
Meeting Date

CS/CS/SB 1000
Bill Number (if applicable)

Topic COMMUNICATIONS

Amendment Barcode (if applicable)

Name TRACY HATCH

Job Title SENIOR LEGAL COUNSEL

Address 150 S. MONROE SUITE 400
Street

Phone 850-577-5505

TALLAHASSEE FL 32301
City State Zip

Email th9467@att.net

Speaking: For Against Information

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

Representing ATT

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)

4/10/17
Meeting Date

SB100
Bill Number (if applicable)

Topic CST (5 min call)

Amendment Barcode (if applicable)

Name Eric Poole

Job Title Leg Rep

Address 100 Monroe St.
Street

Phone 922 4300

Tallah FL 32311
City State Zip

Email

Speaking: For Against Information

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

Representing Florida Assn of Counties

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
APPEARANCE RECORD

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

4/10/19

Meeting Date

1000

Bill Number (if applicable)

Topic

Rights of way-Communications

Amendment Barcode (if applicable)

Name

Charles Dudley

Job Title

General Counsel

Address

108 S. Monroe St.

Phone

681 0024

Street

Tallahassee FL 32301

Email

Cdudley@fla.gov

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

FL Internet & Television Ass'n

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

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

4/9/18

Meeting Date

1000

Bill Number (if applicable)

Topic Communications Services

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr. Legislative Advocate

Address PO Box 1757

Phone 850-701-3621

Street

Tallahassee, FL 32302

City

State

Zip

Email ahughes@gmail.com

Speaking: For Against Information

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

Representing Florida League of Cities

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)

4/9

Meeting Date

1000

Bill Number (if applicable)

Topic Communications

Amendment Barcode (if applicable)

Name Doug Mannheim

Job Title attorney / lobbyist

Address 215 S. Monroe St Suite 400

Phone 850 519 1716

City Tall. Fl State 32301

Email dougmannheimer@nelsonmullins.com

Speaking: For Against Information

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

Representing Sprint

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
APPEARANCE RECORD

4.9.2019

Meeting Date

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

CS / SB / 1000

Bill Number (if applicable)

Topic Communications Services

Amendment Barcode (if applicable)

Name Tom Shelly

Job Title Belleair Commissioner

Address 330 Roebling Rd North

Phone 727.510.8350

Belleair, FL 33756

Email TShelly@TownofBelleair.com

City State Zip

Speaking: For Against Information

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

Representing Town of Belleair

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
APPEARANCE RECORD

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

4/9/19

Meeting Date

SB 1000

Bill Number (if applicable)

Topic Communications Services

Amendment Barcode (if applicable)

Name Demetrius Minor

Job Title Director of Coalitions

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Americans For Prosperity

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)

4/9/2019

Meeting Date

SB 1000

Bill Number (if applicable)

Topic Communications Services

Amendment Barcode (if applicable)

Name Christie Pontis

Job Title Director of Government Affairs

Address 315 South Calhoun Street, Suite 500

Phone 850-599-1073

Street

Tallahassee

FL

32301

Email Christie.A.Pontis@CenturyLink.com

City

State

Zip

Speaking: For Against Information

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

Representing CenturyLink

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

4/9/19

Meeting Date

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

1000

Bill Number (if applicable)

Topic COMMUNICATIONS SERVICES

Amendment Barcode (if applicable)

Name FRENCH BROWN

Job Title Lobbyist

Address 215 S. MONROE ST. SUITE 815

Phone 850-459-0212

Street

TALLAHASSEE FL 32301

City

State

Zip

Email fbrown@dearlead.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.

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

THE FLORIDA SENATE APPEARANCE RECORD

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

4/9/19

1000

Meeting Date

Bill Number (if applicable)

Topic Communications Services

Amendment Barcode (if applicable)

Name Cory Guzzo

Job Title Lobbyist

Address 108 S Monroe Street

Phone 850-681-0024

Street

Tallahassee

FL

32308

Email Cory@flapartners.com

City

State

Zip

Speaking: For Against Information

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

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. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/19

Meeting Date

1000

Bill Number (if applicable)

Topic Communication Services

Amendment Barcode (if applicable)

Name Corinne (core-n) Mixon

Job Title Lobbyist

Address 511 N. Adams St.

Phone 8507665495

Street

Tallahassee

FL

32301

Email corinnemixon@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing T-Mobile

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: SB 1098

INTRODUCER: Senator Lee

SUBJECT: Sales Tax Refund for Eligible Job Training Organizations

DATE: April 8, 2019

REVISED: _____

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

I. Summary:

SB 1098 creates a sales tax refund for eligible job training organizations. Under the bill, an eligible job training organization may apply for a refund of 10 percent of the sales tax the organization remitted to the Department of Revenue (DOR) on its sales of donated goods during the previous state fiscal year.

The Department of Economic Opportunity (DEO) is required to determine an applicant's eligibility for the sales tax refund and certify the eligibility of organizations that meet the specified requirements. The total amount of sales tax refunds issued may not exceed \$2 million in any state fiscal year.

The bill limits the use of a sales tax refund issued to an eligible job training organization to the following purposes:

- Growth in employment hours;
- Job training and employment services to low-income persons, individuals who have workplace disadvantages, or individuals with barriers to employment; or
- Job training and employment services for veterans.

An eligible job training organization that receives a refund must annually report eligibility information to the DEO, including how the previously issued refund was used. If the DEO determines an organization no longer qualifies for the refund, the DEO must immediately notify the DOR, which is prohibited from issuing a refund after receiving such notification. The bill authorizes the DOR to audit any refund within four years of the refund and subjects the overpayment of a refund or a refund issued to an ineligible job training organization to repayment.

The Revenue Estimating Conference has determined the bill will reduce the General Revenue Fund receipts by \$1.6 million in Fiscal Year 2019-2020, with a recurring reduction of \$1.6

million. Local government revenue will be reduced by \$0.4 million in Fiscal Year 2019-2020, with a recurring reduction of \$0.4 million.

The bill takes effect July 1, 2019.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a six percent state sales and use tax on the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rentals of commercial real estate, and a limited number of services.¹

In addition to the state level tax, counties are authorized to levy surtaxes under certain situations.² Surtaxes apply to all transactions occurring in the county that are subject to the state level tax.³

Generally, sales tax is added to the price of taxable goods or services, and the tax is collected from the purchaser at the time of sale.⁴ Anyone that sells taxable goods or services in Florida must register with the DOR as a sales tax dealer to collect, report, and remit sales tax.⁵ The DOR is authorized to audit organizations in the state for the purpose of determining whether such taxes are properly collected, reported, and paid.⁶

Charitable Organizations

Charitable organizations are eligible to receive tax-deductible contributions.⁷ To qualify as a charitable organization under section 501(c)(3) of the Internal Revenue Code an organization must be organized and operated exclusively for an exempt purpose,⁸ none of its earnings may inure to any private shareholder or individual, and it cannot be an action organization.⁹ Additionally, organizations that qualify under section 501(c)(3) may be eligible for other tax benefits, such as state and federal sales, property, and income tax exemptions.¹⁰

¹ See s. 212.05, F.S.

² Section 212.055, F.S.

³ Section 212.054, F.S.

⁴ Sections 212.06(3) and 212.07(2), F.S.

⁵ Section 212.18(3)(a), F.S.; Department of Revenue, *Florida Sales and Use Tax*, GT-800013, Revised 1/19, available at http://floridarevenue.com/Forms_library/current/gt800013.pdf (last visited March 25, 2019).

⁶ See Section 212.13(3) and (4), F.S.

⁷ 26 U.S.C. s. 170

⁸ Exempt purposes under section 501(c)(3) include: “charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals.” IRS, *Exempt Purposes – Internal Revenue Code Section 501(c)(3)*, available at <https://www.irs.gov/charities-non-profits/charitable-organizations/exempt-purposes-internal-revenue-code-section-501c3> (last visited March 25, 2019).

⁹ The prohibition on the organization being an “action organization” means that the organization “may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates.” IRS, *Exemption Requirements - 501(c)(3) Organizations*, available at <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501c3-organizations> (last visited March 25, 2019).

¹⁰ See Internal Revenue Service, *Federal Tax Obligations of Non-Profit Corporations*, available at <https://www.irs.gov/pub/irs-pdf/n844.pdf> (last visited March 25, 2019). See also “Nonprofit organizations may qualify for exemption from some Florida taxes. Each tax is separate and distinct and has its own requirements. As a result, exemption

Qualified Job Training Organizations Program

Section 288.1097, F.S., allows a “qualified job training organization” to receive grant funding from the DEO.

To be eligible, a job training organization must:

- Be exempt under s. 501(c)(3) or (4) of the Internal Revenue Code;
- Provide job training and employment services to individuals who have workplace disadvantages or disabilities;
- Be accredited by the Commission on Accreditation of Rehabilitation Facilities;
- Collect Florida sales tax;
- Specialize in the retail sale of donated items;
- Operate statewide through more than 100 locations;
- Use a majority of its revenues for job training and placement programs that create jobs and foster economic development; and
- Be certified by the DEO that the organization meets the requirements described above.

The DEO is permitted to release funds to the organization pursuant to a contract with the organization. The contract must require the organization to meet certain performance conditions in order to receive the grant funds. The performance conditions must include “net new employment in the state, the methodology for validating performance, the schedule of payments, and sanctions for failure to meet the performance requirements including any provisions for repayment of awards” and that salaries paid to officers and employees of the organization meet the requirements of s. 4958 of the Internal Revenue Code.¹¹

The organization must use the grant funds “solely to encourage and provide economic development through capital construction, improvements, or the purchase of equipment that will result in expanded employment opportunities.” The statute also requires the following results to be met within a 10-year period:

- Creation of at least 5,000 direct, new jobs;
- Minimum of 23,000 new clients served;
- Production of a minimum of \$24 million in new sales tax revenues from increased sales;
- Minimum of \$42 million in new salaries; and
- Minimum of \$6 million for job placement services.

No funds have ever been appropriated to this program.

III. Effect of Proposed Changes:

The bill creates a sales tax refund for an eligible job training organization and requires the organization to use the refund for specific employment purposes.

from one tax does not necessarily exempt the organization from all taxes and not all Florida tax exemptions require the organization obtain a federal tax-exempt status.” Department of Revenue, *Nonprofit Organizations*, available at <http://floridarevenue.com/taxes/businesses/Pages/nonprofit.aspx> (last visited March 25, 2019).

¹¹ Section 288.1097(2), F.S.

To be eligible for the refund, a job training organization must:

- Be exempt under s. 501(c)(3) of the Internal Revenue Code;
- Provide job training and employment services to low-income persons,¹² individuals who have workplace disadvantages, or individuals with barriers to employment; and
- Be accredited by the Commission on Accreditation of Rehabilitation Facilities.

The bill also specifies that an eligible job training organization consisting of commonly owned and controlled entities is deemed to be a single organization.

An eligible job training organization is entitled to a refund equal to 10 percent of the sales tax remitted to the DOR during the prior state fiscal year on the organization's sales of goods donated to the organization. The total amount of sales tax refunds issued to eligible job training organizations may not exceed \$2 million in any state fiscal year. Refunds are granted on a first-come, first-served basis.

The organization must use the refund for any of the following purposes:

- Growth in employment hours.¹³
- Job training and employment services¹⁴ to low-income persons, individuals who have workplace disadvantages, or individuals with barriers to employment.
- Job training and employment services for veterans.

An organization seeking a refund must first submit an application to the DEO by July 15. The application must establish that the organization meets the eligibility requirements and ensure that the refund will be used exclusively for the purposes listed above. The application must also include any supporting information set forth by the DEO in rule. The DEO is required to verify the application and notify the organization of the DEO's determination within 15 days of receiving a complete application. The bill authorizes the DEO to adopt rules necessary to administer the sales tax refund, including rules for the approval and disapproval of applications by organizations.

For approved applications, the DEO must send the eligible job training organization a notice that includes a certification that the organization is eligible to receive the sales tax refund. The decision of the DEO must be in writing, or in e-mail if agreed to by the organization. The DEO must send a copy of the notice and the certification, if applicable, to the DOR. The DEO's issuance of a certification remains in effect as long as the eligible job training organization remains in compliance with the requirements of the law.

¹² "Low-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater. Section 420.0004(11), F.S.

¹³ "Growth in employment hours" is defined by the bill as "the growth in the number of hours worked by employees at an eligible job training organization in the most recently completed state fiscal year, compared to the number of hours worked by employees at the eligible job training organization in the state fiscal year immediately prior to the most recently completed state fiscal year."

¹⁴ "Job training and employment services" is defined by the bill as "programs and services that improve job readiness, to assist workers in gaining employment and adapting to the changing labor market, and to help workers achieve employment success through self-sufficiency."

An eligible job training organization that is certified by the DEO must then apply to the DOR between August 1 and August 31 of each year that the organization seeks a refund. The first application for a refund submitted to the DOR must include a copy of the DEO certification. An application must also include any information required by the DOR.

By August 1 following each state fiscal year that an eligible job training organization received a refund, the organization is required to provide a report to the DEO describing the use of the refund. The report must include the following:

- The amount of the refund used to create growth in employment hours;
- The total growth in employment hours;
- The amount of the refund used for job training and employment services;
- The number of individuals who participated in job training and employment services at the eligible job training organization; and
- A statement declaring that the organization continues to meet the necessary requirements to remain eligible for the sales tax refund.

If the DEO determines that a job training organization no longer qualifies for the refund, the DEO must notify the DOR immediately. The DOR is prohibited from issuing a refund after receiving such notification. The bill also provides that the DOR has the authority to audit any refund within 4 years after the date the refund was granted. The overpayment of a refund, or a refund issued to an ineligible job training organization, is subject to repayment and interest at the rate calculated pursuant to s. 213.235, F.S.

The bill takes effect on July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18, of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues. 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, which for Fiscal Year 2019-2020 is approximately \$2.1 million or less.^{15,16,17}

The Revenue Estimating Conference has determined the bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$0.2 million. Therefore,

¹⁵ FLA. CONST. art. VII, s. 18(d).

¹⁶ Based on the Demographic Estimating Conference's population estimate adopted on Feb. 6, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited March 25, 2019).

¹⁷ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 25, 2019).

the bill has an insignificant impact on local governments and the mandate provision does not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined the bill will reduce the General Revenue Fund receipts by \$1.6 million in Fiscal Year 2019-2020, with a recurring reduction of \$1.6 million. Local government revenue will be reduced by \$0.4 million in Fiscal Year 2019-2020, with a recurring reduction of \$0.4 million.

B. Private Sector Impact:

The bill will have a positive fiscal impact on eligible job training organizations that receive a sales tax refund.

C. Government Sector Impact:

The DEO has stated that any costs related to increased workload to administer the provisions of this bill can be absorbed within existing resources.¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁸ Department of Economic Opportunity, *SB 1098 Fiscal Analysis* (Feb. 19, 2019) (on file with the Senate Committee on Finance and Tax).

VIII. Statutes Affected:

This bill creates section 212.094 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.

By Senator Lee

20-01006-19

20191098__

1 A bill to be entitled
 2 An act relating to a sales tax refund for eligible job
 3 training organizations; creating s. 212.094, F.S.;
 4 defining terms; providing that eligible job training
 5 organizations are entitled to receive a refund of a
 6 specified percentage of certain sales taxes remitted
 7 to the Department of Revenue; requiring such
 8 organizations to use the refund only for specified
 9 purposes; specifying a limit on the total amount of
 10 refunds issued by the department in any state fiscal
 11 year; requiring that refunds be granted on a first-
 12 come, first-served basis; specifying requirements for
 13 applying for a certain certification with the
 14 Department of Economic Opportunity; specifying
 15 requirements and procedures for the Department of
 16 Economic Opportunity in reviewing and approving
 17 applications; specifying that certifications remain
 18 valid so long as such organizations comply with
 19 certain requirements; providing that such
 20 organizations must annually apply for refunds with the
 21 Department of Revenue within a certain timeframe;
 22 providing requirements for refund applications;
 23 providing construction; requiring such organizations,
 24 under certain circumstances and at certain timeframes,
 25 to provide a specified report to the Department of
 26 Economic Opportunity; authorizing the Department of
 27 Economic Opportunity to adopt rules; requiring the
 28 Department of Economic Opportunity to notify the
 29 Department of Revenue under certain circumstances;

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

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30 prohibiting the Department of Revenue from issuing
 31 refunds after receiving such notifications;
 32 authorizing the Department of Revenue to audit any
 33 refunds within a certain timeframe; providing that
 34 refund overpayments and refunds issued to ineligible
 35 organizations are subject to repayment and specified
 36 interest; providing an effective date.
 37

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

40 Section 1. Section 212.094, Florida Statutes, is created to
 41 read:

42 212.094 Sales tax refund for eligible job training
 43 organizations.-

44 (1) As used in this section, the term:

45 (a) "Eligible job training organization" means an
 46 organization that:

47 1. Is an exempt organization under s. 501(c)(3) of the
 48 Internal Revenue Code of 1986, as amended;

49 2. Provides job training and employment services to low-
 50 income persons as defined in s. 420.0004, individuals who have
 51 workplace disadvantages, or individuals with barriers to
 52 employment; and

53 3. Is accredited by the Commission on Accreditation of
 54 Rehabilitation Facilities.

55 (b) "Growth in employment hours" means the growth in the
 56 number of hours worked by employees at an eligible job training
 57 organization in the most recently completed state fiscal year,
 58 compared to the number of hours worked by employees at the

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

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59 eligible job training organization in the state fiscal year
60 immediately before the most recently completed state fiscal
61 year.

62 (c) "Job training and employment services" means programs
63 and services that are provided to improve job readiness, to
64 assist workers in gaining employment and adapting to the
65 changing labor market, and to help workers achieve success
66 through self-sufficiency.

67 (2) An eligible job training organization is entitled to a
68 refund of 10 percent of the sales tax remitted to the department
69 during the most recently completed state fiscal year on its
70 sales of goods donated to the organization. The organization
71 must reserve the refund exclusively for use in any of the
72 following:

73 (a) Growth in employment hours.

74 (b) Job training and employment services to low-income
75 persons as defined in s. 420.0004, individuals who have
76 workplace disadvantages, and individuals with barriers to
77 employment.

78 (c) Job training and employment services for veterans.

79 (3) The total amount of refunds that the department may
80 issue under this section may not exceed \$2 million in any state
81 fiscal year. Refunds must be granted on a first-come, first-
82 served basis.

83 (4) An organization seeking a refund under this section
84 must first submit an application to the Department of Economic
85 Opportunity by July 15, which sets forth that the organization
86 meets the requirements under paragraph (1)(a) and that the
87 refund will be used exclusively for the purposes listed in

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88 subsection (2). The organization must submit supporting
89 information as prescribed by the Department of Economic
90 Opportunity by rule.

91 (5) (a) The Department of Economic Opportunity shall verify
92 the application and notify the organization of its determination
93 within 15 days after receiving a complete application. The
94 Department of Economic Opportunity shall communicate its
95 decision in writing or, if agreed to by the applicant, via e-
96 mail.

97 (b) If the Department of Economic Opportunity approves the
98 application, the notice sent to the eligible job training
99 organization must include a certification that the organization
100 is eligible to receive a refund of certain sales and use tax
101 remitted under this chapter. The Department of Economic
102 Opportunity shall transmit a copy of the notice and
103 certification, if applicable, to the department.

104 (c) Upon the Department of Economic Opportunity's issuance
105 of a certification, the certification remains valid so long as
106 the eligible job training organization is in compliance with the
107 requirements of this section.

108 (6) An eligible job training organization certified under
109 this section must apply to the department between August 1 and
110 August 31 of each year to receive a refund. A copy of the
111 certification must be included in an eligible job training
112 organization's first application for a refund, but is not
113 required to be included in subsequent applications. The
114 organization must submit any information required by the
115 department as part of its application for the refund.

116 (7) For purposes of this section, an eligible job training

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117 organization comprised of commonly owned and controlled entities
 118 is deemed to be a single organization.

119 (8) By August 1 following each state fiscal year in which
 120 an eligible job training organization received a refund pursuant
 121 to subsection (2), the organization must provide a report to the
 122 Department of Economic Opportunity regarding the use of the
 123 funds in accordance with subsection (2). The report must include
 124 at least all of the following:

125 (a) The amount of the refund used to create growth in
 126 employment hours.

127 (b) The total growth in employment hours.

128 (c) The amount of the refund used for job training and
 129 employment services.

130 (d) The number of individuals who participated in job
 131 training and employment services at the eligible job training
 132 organization.

133 (e) A statement declaring that the eligible job training
 134 organization continues to meet the requirements of this section.

135 (9) (a) The Department of Economic Opportunity may adopt
 136 rules to administer this section, including rules for the
 137 approval and disapproval of applications.

138 (b) If the Department of Economic Opportunity determines
 139 that an eligible job training organization no longer qualifies
 140 for the refund under this section, the Department of Economic
 141 Opportunity must notify the department immediately. The
 142 department may not issue a refund after receiving such
 143 notification.

144 (c) Notwithstanding s. 95.091(3)(a)6.b., the department may
 145 audit any refund within 4 years after a refund is granted. The

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146 overpayment of a refund or a refund issued to an ineligible
 147 organization is subject to repayment and interest at the rate
 148 calculated pursuant to s. 213.235.

149 Section 2. This act shall take effect July 1, 2019.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Finance and Tax
ITEM: SB 1098
FINAL ACTION: Favorable
MEETING DATE: Tuesday, April 9, 2019
TIME: 4:00—6:00 p.m.
PLACE: 401 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
X		Bracy						
X		Bradley						
X		Pizzo						
X		Powell						
X		Stargel						
X		Gruters, VICE CHAIR						
		Gainer, CHAIR						
7	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



The Florida Senate

Committee Agenda Request

To: Senator George Gainer, Chair
Committee on Finance and Tax

Subject: Committee Agenda Request

Date: March 19, 2019

I respectfully request that **Senate Bill # 1098**, relating to Sales Tax Refund for Eligible Job Training Organizations, be placed on the:

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

A handwritten signature in blue ink that reads "Tom Lee".

Senator Tom Lee
Florida Senate, District 20



2019 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: DEPARTMENT OF ECONOMIC OPPORTUNITY

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 1098
BILL TITLE:	Sales Tax Refund for Eligible Job Training Organizations
BILL SPONSOR:	Lee
EFFECTIVE DATE:	July 1, 2019

<u>COMMITTEES OF REFERENCE</u>
1) Commerce and Tourism
2) Finance and Tax
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<u>CURRENT COMMITTEE</u>
Finance and Tax

<u>SIMILAR BILLS</u>	
BILL NUMBER:	HB 643
SPONSOR:	Trumbull

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?
Click or tap here to enter text.

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	March 13, 2019
LEAD AGENCY ANALYST:	Bianca Rubio
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Valerie Wright
FISCAL ANALYST:	Susan Lincoln

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Senate Bill 1098 (the "Bill") creates s. 212.094, F.S. establishing a sales tax refund for certain eligible job training organizations.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Bill establishes a new program, and does not modify any programs that currently exist within Florida Statutes.

2. EFFECT OF THE BILL:

The Bill entitles "Certified job training organizations" (as defined in the Bill) to a 10 percent refund on the sales tax that is remitted to the Department of Revenue ("DOR") during the prior state fiscal year on the organization's sales of goods donated to the organization. Job training and employment services provided by the organization are defined as programs and services that are provided to improve job readiness, assist workers in gaining employment and adapting to the changing labor market, and achieve worker success through self-sufficiency.

The Bill requires the refund to be reserved exclusively for use in (a) growth in employment hours, (b) job training and employment services to low-income persons, individuals who have workplace disadvantages, and individuals with barriers to employment, or (c) job training and employment services for veterans.

The total amount of refunds issued may not exceed \$2 million in any state fiscal year and shall be refunded on a first-come, first-served basis. An initial application for the refund, which attests that the organization meets the requirements and that the refund will be used exclusively for the specified approved purposes, must be submitted by the job training organization to the Department of Economic Opportunity ("DEO") by July 15. DEO must verify the application and notify the organization of its determination within 15 days after receiving the application. If an application is approved, a certificate that authorizes the organization to receive the refund is issued by DEO to the organization, with a copy transmitted to DOR.

Each certified job training organization must then apply to DOR to receive the refund, between August 1 and August 31 of each year. The first application for a refund submitted to DOR must be accompanied by a copy of the DEO certificate.

Each certified job training organization that received a refund for the previous fiscal year, must provide a report to DEO by August 1 of the following year. The report must describe the use of the amount refunded and must include: the amount of the refund used to create growth in employment hours, the total annual growth in employment hours, the amount of the refund used for job training and employment services, the number of individuals who participated in job training and employment services, and a statement declaring that the certified job training organization continues to meet the requirements.

If DEO determines a certified job training organization no longer qualifies for refunds then DEO must notify DOR immediately and a refund may not be issued.

The Bill provides that DOR may audit any refund within 4 years after the date of which a refund is granted. The overpayment of a refund or a refund issued to an ineligible organization is subject to repayment with interest calculated pursuant to s. 213.235, F.S.

The Bill provides an effective date of July 1, 2019.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

If yes, explain:	The Bill allows DEO to adopt rules to administer the sales tax refund for eligible job training organizations, including rules for the approval and disapproval of applications.
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Click or tap here to enter text.
Opponents and summary of position:	Click or tap here to enter text.

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	The Bill requires each certified job training organization to provide a report which describes the use of the amount refunded to DEO by July 15 of each year.
Date Due:	August 1
Bill Section Number(s):	s. 212.094(8)

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y N

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y N

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.

Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y N

Revenues:	The Bill creates a 10 percent sales tax refund for eligible job training organizations on the sales of goods donated to the organization. The total amount of refunds issued may not exceed \$2 million in any state fiscal year.
Expenditures:	The Department will incur expenses to accept and approve applications. The total impact is not known at this time.
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y N

Revenues:	If approved the recipient may receive up to 10 percent refund of the sales tax paid in the year approved.
Expenditures:	Awardee would have to prepare reports to show how the refund is being used for job training and employment services.
Other:	Click or tap here to enter text.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y N

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y N

If yes, describe the anticipated impact to the agency including any fiscal impact.	Click or tap here to enter text.
--	----------------------------------

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
--	----------------------------------

ADDITIONAL COMMENTS

Click or tap here to enter text.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	None.
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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)

4 / 9 / 2019

Meeting Date

Topic _____

Bill Number 1098
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

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.

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 1412

INTRODUCER: Commerce and Tourism Committee and Senator Gruters

SUBJECT: Sales Tax Holiday for Disaster Preparedness Supplies

DATE: April 8, 2019

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1412 establishes a 14-day period, from Saturday, June 1 through Friday, June 14, 2019, during which certain items purchased for disaster preparedness and protection are exempt from the sales and use tax and local discretionary sales surtaxes. The bill lists 11 items that are exempt from sales tax during the sales tax holiday.

The bill allows the Department of Revenue (DOR) to adopt emergency rules in order to implement the sales tax holiday.

The bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the DOR in Fiscal Year 2018-2019 to administer the sales tax holiday.

The Revenue Estimating Conference has determined the bill will reduce General Revenue Fund receipts by \$18.4 million and local government revenue by \$5.8 million for Fiscal Year 2019-2020.

The bill takes effect upon becoming law.

II. Present Situation:

Florida Sales and Use Tax

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property, admissions,¹ transient rentals,² rental of commercial real estate,³ and a limited number of services. Chapter 212, F.S., contains provisions authorizing 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 are currently more than 270 exemptions, exclusions, deductions, and credits from the sales and use tax.⁴ Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁵ Sales tax receipts accounted for 77 percent of the state's General Revenue in Fiscal Year 2018-2019.⁶

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202, F.S."⁷ The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered into. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 to 2.5 percent.⁸

Previous legislatures have approved sales tax exemptions for specified items in preparation for the Atlantic hurricane season, which officially begins in June 1st of each year.⁹ The Florida Division of Emergency Management recommends having a plan and preparing property to prevent damage. Additionally, the Division of Emergency Management recommends having a disaster supply kit with items such as a battery-operated radio, flashlight, batteries, and first-aid kit.¹⁰ The Division also recommends reinforcing five critical areas to prevent wind and debris damage. The five areas are roof, straps, windows, doors, and garage doors.¹¹

¹ Section 212.04, F.S.

² Section 212.03, F.S.

³ Section 212.031, F.S.

⁴ See Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook*, 163-168 (2019), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited March 25, 2019).

⁵ Sections 212.06(3) and 212.07(2), F.S.

⁶ Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, Sources of General Revenue, 16 (2019), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited March 25, 2019).

⁷ Section 212.054, F.S.

⁸ Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, 2019 Local Discretionary Sales Surtax Rates in Florida's Counties, 225-226 (2019), available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2019.pdf> (last visited March 25, 2019).

⁹ National Oceanic and Atmospheric Administration. *Frequently Asked Questions*, available at <http://www.aoml.noaa.gov/hrd/tcfaq/G1.html> (last visited March 20, 2019).

¹⁰ Florida Division of Emergency Management, *Plan & Prepare, Disaster Supply Kit*, available at <https://www.floridadisaster.org/planprepare/disaster-supply-kit/> (last visited March 20, 2019).

¹¹ Florida Division of Emergency Management, *Plan & Prepare, Planning for Your Home*, available at <https://www.floridadisaster.org/planprepare/secure-your-home/> (last visited March 20, 2019).

III. Effect of Proposed Changes:

The bill establishes a 14-day period, from Saturday, June 1 through Friday, June 14, 2019, during which items purchased for disaster preparedness and protection are exempt from the sales and use tax and local discretionary sales surtaxes. The following items are exempt:

- A portable self-powered light source selling for \$20 or less;
- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- An item typically sold or advertised as a ground anchor system or tie-down kit selling for \$50 or less;
- A gas or diesel fuel tank selling for \$25 or less;
- A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- A non-electric food storage cooler selling for \$30 or less;
- A portable generator used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less;
- Reusable ice selling for \$10 or less;
- Impact-resistant windows, when sold in units of 20 or fewer; and
- Impact-resistant doors, when sold in units of 10 or fewer.

The exemptions for the impact-resistant windows and doors apply to purchases made by an owner of residential real property where such products will be installed.

Sales within public lodging establishments,¹² theme parks or entertainment complexes,¹³ or airports¹⁴ are not exempt from taxes under the bill.

The bill authorizes the department to adopt emergency rules in order to implement the sales tax exemption.

The bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the DOR in Fiscal Year 2018-2019 to administer the sales tax holiday.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues.

¹² Section 509.013(4), F.S.

¹³ Section 509.013(9), F.S.

¹⁴ Section 330.27(2), F.S.

Subsection (b) of s. 18, Art. VII, 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, which for Fiscal Year 2019-2020, is \$2.1 million or less.^{15,16,17}

The Revenue Estimating Conference has determined the bill will reduce the authority that counties have to raise revenue from the local options sales tax by \$3.4 million. Therefore, the bill has a significant impact on local governments and the mandates provision may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined the bill will reduce General Revenue Fund receipts by \$18.4 million and the local government revenue by \$5.8 million for Fiscal Year 2019-2020.

B. Private Sector Impact:

Persons purchasing exempted items during the holiday will realize savings. Also, the holiday may promote retail sales at businesses selling items exempted under the bill.

¹⁵ FLA. CONST. art. VII, s. 18(d).

¹⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Mar. 25, 2019).

¹⁷ Based on the Demographic Estimating Conference's population adopted on Feb. 6, 2019. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Mar. 25, 2019).

C. **Government Sector Impact:**

The bill appropriates \$70,072 in nonrecurring funds from the General Revenue Fund to the Department of Revenue in Fiscal Year 2018-2019 to administer the sales tax holiday.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

The bill creates an undesignated section of law.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Changes:**

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

CS by Commerce and Tourism on March 18, 2019:

The committee substitute appropriates \$70,072 to the Department of Revenue to administer the sales tax holiday.

B. **Amendments:**

None.

By the Committee on Commerce and Tourism; and Senator Gruters

577-03168-19

20191412c1

A bill to be entitled

An act relating to a sales tax holiday for disaster preparedness supplies; providing exemptions from the sales and use tax for specified disaster preparedness supplies during a specified timeframe; providing applicability for certain exemptions; authorizing the Department of Revenue to adopt emergency rules; specifying locations where the exemptions do not apply; providing an appropriation; providing an effective date.

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

Section 1. Disaster preparedness supplies; sales tax holiday.-

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from June 1, 2019, through June 14, 2019, on the retail sale of:

(a) A portable self-powered light source selling for \$20 or less.

(b) A portable self-powered radio, two-way radio, or weather-band radio selling for \$50 or less.

(c) A tarpaulin or any other flexible waterproof sheeting selling for \$50 or less.

(d) An item normally sold as, or generally advertised as, a ground anchor system or tie-down kit and selling for \$50 or less.

(e) A gas or diesel fuel tank selling for \$25 or less.

(f) A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt,

Page 1 of 3

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

577-03168-19

20191412c1

or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less.

(g) A nonelectric food storage cooler selling for \$30 or less.

(h) A portable generator used to provide light or communications or preserve food in the event of a power outage and selling for \$750 or less.

(i) Reusable ice selling for \$10 or less.

(j) Impact-resistant windows, when sold in units of 20 or fewer.

(k) Impact-resistant doors, when sold in units of 10 or fewer.

The exemptions under paragraphs (j) and (k) apply to purchases made by an owner of residential real property where the impact-resistant windows or impact-resistant doors will be installed.

(2) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to implement this section.

(3) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

Section 2. For the 2018-2019 fiscal year, the sum of \$70,072 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this act.

Page 2 of 3

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

577-03168-19

20191412c1

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Section 3. This act shall take effect upon becoming a law.

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Finance and Tax
ITEM: CS/SB 1412
FINAL ACTION: Favorable
MEETING DATE: Tuesday, April 9, 2019
TIME: 4:00—6:00 p.m.
PLACE: 401 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
X		Bracy						
X		Bradley						
X		Pizzo						
X		Powell						
X		Stargel						
X		Gruters, VICE CHAIR						
		Gainer, CHAIR						
7	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
-R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Banking and Insurance

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JOE GRUTERS

23rd District

March 25, 2019

The Honorable George B. Gainer, Chair
Finance and Tax Committee
215 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Gainer:

I am writing to request that Senate Bill 1412, Sales Tax Holiday for Disaster Preparedness Supplies, be placed on the agenda of the next Finance and Tax Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters".

Joe Gruters

cc: Jose Diez-Arguelles, Staff Director
Robert Babin, Deputy Staff Director
Lynn Wells, Committee Administrative Assistant

REPLY TO:

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4 / 9 / 2019

Meeting Date

Topic _____

Bill Number 1412
(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)

4/9/19

Meeting Date

1412

Bill Number (if applicable)

Topic Hurricane Preparedness

Amendment Barcode (if applicable)

Name Scott Jenkins

Job Title Lobbyist

Address 113 E. College Ave Ste 200

Phone 850-661-0829

Street

TCH FL 32301

City

State

Zip

Email scott@wibsonmgmd.com

Speaking: For Against Information

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

Representing PGT Innovations

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
APPEARANCE RECORD

4/9/19

Meeting Date

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

1412

Bill Number (if applicable)

Topic Disaster Preparedness Holiday

Amendment Barcode (if applicable)

Name FRENCH BROWN

Job Title Lobbyist

Address 215 S. MONROE St., Suite 815

Phone 850-459-0192

Street

Tallahassee

City

FL

State

32308

Zip

Email FBrown@deanmbad.com

Speaking: For Against Information

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

Representing FLORIDA RETAIL FEDERATION

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

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Chair*
Agriculture, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal
and Civil Justice
Military and Veterans Affairs and Space

SENATOR GEORGE B. GAINER

2nd District

April 9, 2019

Senator Joe Gruters,

Please excuse me from today's Finance and Tax meeting. I will be unable to attend due to medical reasons. I am requesting that you be named chair for today's Finance and Tax meeting at 4:00 pm.

Sincerely,

A handwritten signature in blue ink that reads "George B. Gainer".

Senator George Gainer

CC: Senator Joe Gruters

REPLY TO:

- 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- 302 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002
- Northwest Florida State College, 100 East College Boulevard, Building 330, Rooms 105 and 112, Niceville, Florida 32578 (850) 747-5454

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Committee on Finance and Tax

Judge:

Started: 4/9/2019 4:05:02 PM

Ends: 4/9/2019 4:41:50 PM Length: 00:36:49

4:05:00 PM Meeting called to order by Chair Gruters
4:05:02 PM Roll call
4:05:10 PM Quorum present
4:05:21 PM Comments from Chair Gruters
4:05:36 PM Chair Gainer is excused from meeting per Chair Gruters
4:05:54 PM Introduction of Tab 3, SB 1098 by Chair Gruters
4:06:05 PM Explanation of SB 1098, Sales Tax Refund for Eligible Job Training Organizations by Senator Lee
4:07:13 PM Speaker Brian Pitts, Justice-2-Jesus
4:09:56 PM Senator Lee in closure
4:10:10 PM Roll call
4:10:20 PM SB 1098 reported favorably
4:10:38 PM Introduction of Tab 2, CS/CS/SB 1000 by Chair Gruters
4:11:02 PM Explanation of CS/CS/SB, Communications Services by Senator Hutson
4:12:29 PM Speaker Tracy Hatch, Senior Legal Counsel, AT&T in support
4:15:16 PM Question from Senator Pizzo
4:17:43 PM Response from Mr. Hatch
4:19:13 PM Follow-up question from Senator Pizzo
4:19:23 PM Response from Mr. Hatch
4:20:39 PM Speaker Eric Poole, Florida Association of Counties in opposition
4:22:40 PM Speaker Charles Dudley, General Counsel, Florida Internet & Television Association in support
4:25:04 PM Speaker Amber Hughes, Senior Legislative Advocate, Florida League of Cities in opposition
4:30:29 PM Doug Mannheimer, Sprint waives in support
4:30:40 PM Tom Shelly, Commissioner, Town of Belleair waives in opposition
4:30:51 PM Demetrius Minor, Director of Coalitions, Americans for Prosperity waives in support
4:30:57 PM Christie Pontis, Director of Government Affairs, CenturyLink in support
4:31:03 PM French Brown, Florida Chamber of Commerce waives in support
4:31:08 PM Cory Guzzo, Associated Industries of Florida waives in support
4:31:15 PM Corinne Mixon, T-Mobile waives in support
4:31:28 PM Brian Pitts, Justice-2-Jesus
4:31:41 PM Senator Pizzo in debate
4:33:07 PM Senator Powell in debate
4:33:47 PM Closure by Senator Hutson
4:33:53 PM Roll call
4:34:41 PM CS/CS/SB 1000 reported favorably
4:34:59 PM Chair passed to Senator Bradley
4:35:14 PM Introduction of Tab 1, CS/SB 264 by Chair Bradley
4:35:24 PM Explanation of CS/SB 264, Florida Worker's Compensation Joint Underwriting Association by Senator Gruters
4:36:13 PM Robert Hawken, Florida Worker's Compensation, JUA waives in support
4:36:20 PM Brian Pitts, Justice-2-Jesus waives in support
4:36:27 PM Closure waived
4:36:30 PM Roll call
4:36:33 PM CS/SB 264 reported favorably
4:36:49 PM Introduction of Tab 4, CS/SB 1412 by Chair Bradley
4:36:54 PM Explanation of CS/SB 1412, Sales Tax Holiday for Disaster Preparedness Supplies by Senator Gruters
4:37:14 PM French Brown, Florida Retail Federation in support
4:37:18 PM Scott Jenkins, PGT Innovations in support
4:37:22 PM Speaker Brian Pitts, Justice-2-Jesus
4:40:09 PM Senator Gruters in closure
4:40:22 PM Roll call
4:40:52 PM CS/SB 1412 reported favorably
4:41:09 PM Chair returned to Chair Gruters

4:41:20 PM

Comments from Chair Gruters

4:41:29 PM

Senator Bradley moves to adjourn, meeting adjourned without objection