

CS/CS/SB 1108 by **CA, CM, Altman**; (Compare to CS/H 0939) Taxation

122096	A	S	RCS	BFT, Altman	btw L.70 - 71:	02/24 04:35 PM
116190	A	S	RCS	BFT, Altman	btw L.70 - 71:	02/24 04:35 PM

SB 1062 by **Detert (CO-INTRODUCERS) Gardiner**; (Similar to CS/H 1005) Tangible Personal Property Taxes

SJR 1064 by **Detert (CO-INTRODUCERS) Gardiner**; Tangible Personal Property

127370	A	S	FAV	CA, Richter	Delete L.10 - 11:	02/06 12:19 PM
858192	D	S	RCS	BFT, Altman	Delete everything after	02/24 04:35 PM

SB 982 by **Bogdanoff**; (Similar to CS/1ST ENG/H 0737) Tax on Sales, Use, and Other Transactions

825978	A	S	RCS	BFT, Margolis	Delete L.15:	02/24 04:35 PM
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SB 294 by **Bennett**; (Identical to H 0201) Enterprise Zones/Charlotte County

CS/SJR 312 by **JU, Simmons**; Rescinding and Withdrawing House Joint Resolution 381 (2011)

CS/SJR 314 by **JU, Simmons**; Ad Valorem Taxation

CS/SB 458 by **BI, Bennett**; Uniform Fraudulent Transfer Act

SB 592 by **Siplin**; (Identical to H 0821) Tax Exemptions/Fresh Fruit and Vegetable Packinghouses

892004	A	S	WD	BFT, Altman	Delete L.36 - 37:	02/23 12:46 PM
358890	A	S	FAV	BFT, Altman	Delete L.36 - 37:	02/23 12:46 PM

CS/SB 750 by **ED, Flores**; (Identical to CS/H 0465) Bonds

SB 806 by **Dean**; (Identical to H 0371) Enterprise Zones

CS/CS/SB 1060 by **CA, CU, Bogdanoff (CO-INTRODUCERS) Lynn**; (Compare to CS/2ND ENG/H 0809)
Communications Services Taxes

774432	D	S	RCS	BFT, Margolis	Delete everything after	02/24 04:35 PM
642442	D	S	WD	BFT, Margolis	Delete everything after	02/24 04:35 PM

CS/SB 1182 by **CA, Norman**; (Similar to CS/CS/H 0933) Public Housing

539534	A	S	RCS	BFT, Norman	Delete L.583 - 600:	02/24 04:35 PM
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SB 1384 by **Bennett**; (Identical to H 1213) Taxes

343760	D	S	RCS	BFT, Altman	Delete everything after	02/24 04:35 PM
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BUDGET SUBCOMMITTEE ON FINANCE AND TAX

Senator Norman, Chair
Senator Altman, Vice Chair

MEETING DATE: Thursday, February 23, 2012

TIME: 8:00 —9:30 a.m.

PLACE: 301 Senate Office Building

MEMBERS: Senator Norman, Chair; Senator Altman, Vice Chair; Senators Alexander, Gardiner, Margolis, and Sachs

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/CS/SB 1108 Community Affairs / Commerce and Tourism / Altman (Compare CS/H 939, H 7087)	Taxation; Providing an exemption from intangible tax for lessees performing a governmental, municipal, or public purpose or function; providing for retroactive application; exempting certain items used to manufacture, produce, or modify aircraft engines and gas turbine engines and parts from the tax on sales, use, and other transactions, etc. CM 02/02/2012 Fav/CS CA 02/13/2012 Fav/CS BFT 02/23/2012 Fav/CS BC	Fav/CS Yeas 4 Nays 0
2	SB 1062 Detert (Compare CS/H 1005, Link SJR 1064)	Tangible Personal Property Taxes; Revising the conditions for a waiver of the requirements to file a tangible personal property tax return; providing for application, etc. CA 02/06/2012 Favorable BFT 02/23/2012 Favorable BC	Favorable Yeas 4 Nays 0
3	SJR 1064 Detert (Link S 1062, S 1352)	Tangible Personal Property; Proposing an amendment to the State Constitution to authorize the Legislature to have more flexibility in providing for the assessment and exemption of tangible personal property from ad valorem taxation, etc. CA 02/06/2012 Fav/1 Amendment BFT 02/23/2012 Fav/CS BC	Fav/CS Yeas 4 Nays 0
4	SB 982 Bogdanoff (Similar CS/H 737)	Tax on Sales, Use, and Other Transactions; Specifying a period during this year when the sale of clothing, wallets, bags, and school supplies are exempt from the tax; providing exceptions; authorizing the Department of Revenue to adopt emergency rules, etc. ED 02/06/2012 Favorable BFT 02/23/2012 Fav/CS BC	Fav/CS Yeas 4 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Finance and Tax

Thursday, February 23, 2012, 8:00 —9:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 294 Bennett (Identical H 201, Compare H 7087)	Enterprise Zones/Charlotte County; Authorizing Charlotte County to apply to the Department of Economic Opportunity for designation of an enterprise zone; providing application requirements; authorizing the department to designate an enterprise zone in Charlotte County; requiring that the department establish the initial effective date for the enterprise zone, etc. CM 01/19/2012 Favorable CA 01/30/2012 Favorable BFT 02/23/2012 Favorable BC	Favorable Yeas 4 Nays 0
6	CS/SJR 312 Judiciary / Simmons (Link CS/SJR 314)	Rescinding and Withdrawing House Joint Resolution 381 (2011); Rescinding and withdrawing House Joint Resolution 381 (2011), which relates to ad valorem taxation, contingent upon adoption of a joint resolution proposing alternative amendments to the State Constitution, etc. CA 11/14/2011 Favorable JU 12/07/2011 Fav/CS BFT 01/25/2012 Workshop-Discussed BFT 02/23/2012 Temporarily Postponed BC	Temporarily Postponed
7	CS/SJR 314 Judiciary / Simmons (Link CS/SJR 312)	Ad Valorem Taxation; Proposing amendments to the State Constitution to allow the Legislature by general law to prohibit increases in the assessed value of homestead and specified nonhomestead property if the just value of the property decreases, reduce the limitation on annual assessment increases applicable to nonhomestead real property, provide an additional homestead exemption for owners of homestead property, authorize the Legislature to adjust the amount of the exemption, provide that the additional exemption is to be reduced by the difference between the just value and the assessed value, delay a future repeal of provisions limiting annual assessment increases for specified nonhomestead real property, and provide effective dates, etc. CA 11/14/2011 Favorable JU 12/07/2011 Fav/CS BFT 01/25/2012 Workshop-Discussed BFT 02/23/2012 Temporarily Postponed BC	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Finance and Tax

Thursday, February 23, 2012, 8:00 —9:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	CS/SB 458 Banking and Insurance / Bennett	Uniform Fraudulent Transfer Act; Defining the terms "charitable contribution" and "qualified religious or charitable entity or organization"; exempting certain transfers of charitable contributions from the provisions of ch. 726, F.S., etc. BI 02/07/2012 Fav/CS BFT 02/23/2012 Favorable BC	Favorable Yeas 4 Nays 0
9	SB 592 Siplin (Identical H 821, Compare H 7087)	Tax Exemptions/Fresh Fruit and Vegetable Packinghouses; Providing an exemption for electricity used by fresh fruit and vegetable packinghouses; defining the term "packinghouse", etc. AG 11/14/2011 Favorable BFT 02/23/2012 Adopted reconsider (Fav/CS) BC	Pending Motion to Reconsider Adopted -- Final Vote: Fav/CS Yeas 4 Nays 0
10	CS/SB 750 Education Pre-K - 12 / Flores (Identical CS/H 465)	Bonds; Revising the period for which bonds are to be retired; providing that all bonds are callable at times and upon terms prescribed by the district school board, etc. ED 02/06/2012 Fav/CS BFT 02/23/2012 Favorable BC	Favorable Yeas 4 Nays 0
11	SB 806 Dean (Identical H 371, Compare H 7087)	Enterprise Zones; Authorizing Citrus County to apply to the Department of Economic Opportunity for designation of an enterprise zone; providing an application deadline and requirements; authorizing the department to designate an enterprise zone in Citrus County; requiring the department to establish the effective date of the enterprise zone, etc. CM 01/19/2012 Favorable CA 01/30/2012 Favorable BFT 02/23/2012 Favorable BC	Favorable Yeas 4 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Finance and Tax

Thursday, February 23, 2012, 8:00 —9:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	CS/CS/SB 1060 Community Affairs / Communications, Energy, and Public Utilities / Bogdanoff (Compare CS/H 809)	Communications Services Taxes; Clarifying provisions exempting from the public records law certain proprietary confidential business information held by a local governmental entity for the purpose of assessing the local communications services tax; revising provisions relating to a communications services dealer's liability for tax underpayments that result from the incorrect assignment of service addresses to local taxing jurisdictions and providing requirements and conditions with respect thereto; requiring the Department of Revenue to aggregate monthly and make available to the public on a jurisdiction-by-jurisdiction basis certain sales and net tax information, etc. CU 01/30/2012 Fav/CS CA 02/06/2012 Fav/CS BFT 02/23/2012 Fav/CS BC	Fav/CS Yeas 4 Nays 0
13	CS/SB 1182 Community Affairs / Norman (Similar CS/CS/H 933, Compare CS/H 921, CS/S 1830)	Public Housing; Revising provisions for terminating a rental agreement that involves rent subsidies received from a local, state, or national government; providing that access to essential commercial goods and services for persons of low income served by housing authorities is a public use; prohibiting the use of eminent domain for certain purposes; revising and providing findings and declarations of property of tax exemption for housing authorities relating to access to essential commercial goods and services necessary for daily living for persons of low income; authorizing Florida Housing Finance Corporation to set aside a portion of its federal and state funding to fund housing for economic development initiatives, veterans' housing, and housing for other special needs populations, etc. CA 01/30/2012 Fav/CS BFT 02/23/2012 Fav/CS BC	Fav/CS Yeas 4 Nays 0
14	SB 1384 Bennett (Identical H 1213, Compare H 7087)	Taxes; Expanding exemptions from the sales and use tax on labor and parts and equipment used in aircraft repairs on certain aircraft weighing more than 2,000 pounds, etc. TR 01/26/2012 Favorable BFT 02/23/2012 Fav/CS BC	Fav/CS Yeas 4 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 Budget Subcommittee on Finance and Tax

BILL: CS/CS/SB 1108

INTRODUCER: Community Affairs Committee; Commerce and Tourism Committee; and Senator Altman

SUBJECT: Taxation

DATE: February 20, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	Fav/CS
2.	Toman	Yeatman	CA	Fav/CS
3.	Cote	Diez-Arguelles	BFT	Pre-meeting
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
B. AMENDMENTS..... Technical amendments were recommended
 Amendments were recommended
 Significant amendments were recommended

I. Summary:

CS/CS/SB 1108 creates a new sales tax exemption for certain items used to manufacture and produce aircraft and gas turbine engines. The CS also provides an exemption from intangible tax for lessees of governmental property that perform a governmental, municipal or public purpose function.

This CS amends s. 196.199 of the Florida Statutes.

This CS creates s. 212.08(7)(hhh) of the Florida Statutes.

II. Present Situation:

Sales and Use Taxes

Chapter 212, F.S., contains the state's statutory provisions authorizing the levying 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. Florida imposes a 6 percent tax on tangible personal

property sold, used, consumed, distributed, stored for use or consumption, rented, or leased in Florida.¹ Section 212.08, F.S., provides a list of sales and use tax exemptions. Currently, there is no exemption for items used in manufacturing and fabricating gas turbine engines.

Turbines

“A turbine is any kind of spinning device that uses the action of a fluid to produce work.”² Fluids typically used in turbines include air, wind, water, steam and helium. Windmills and hydroelectric dams are two examples of turbine action being used to turn the core of an electrical generator to produce power.

Gas turbines were first developed in the 1930s, and were used to generate electricity and power airplane flight. Gas turbines use a compressor to draw in and compress gas (usually air), then a combustor (or burner) adds fuel (such as propane, natural gas, kerosene or jet fuel) to heat the compressed gas, and a turbine extracts power from the hot air flow. The gas turbine is an internal combustion engine employing a continuous combustion process. Gas turbines are also known as combustion turbines, turboshaft engines, or gas turbine engines in power generation and marine applications and as jet engines, jet turbine engines, turbojets, turbofans, fanjets, turboprops or prop jets in aviation applications.

Gas turbines have many applications, and are used in power plants, tanks, jets, helicopters and trains.

Castings

“Casting is a manufacturing process by which a liquid material is usually poured into a mold, which contains a hollow cavity of the desired shape, and then allowed to solidify.”³ The “casting” is the solidified part, which is generally removed from the mold by breaking the mold.⁴ There are several different methods to create a casting.⁵ Materials used in casting are usually metals or “various cold setting materials that cure after mixing two or more components together. Casting is most often used for making complex shapes that would be otherwise difficult or uneconomical to make by other methods.”⁶

The World Foundry Organization lists the U.S. as the third largest castings producer in the world in 2009.⁷

¹ See ss. 212.05 and 212.06, F.S.

² See Langston, Lee S., and George Opdyke, Jr., *Introduction to Gas Turbines for Non-Engineers*, *Global Gas Turbine News*, Volume 37: 1997, No.2, available at <http://files.asme.org/IGTI/101/13001.pdf> (last visited Feb. 7, 2012).

³ See Wikipedia article, “Casting,” citing Degarmo, E. Paul, J. T. Black, and Ronald A. Kosher, “Materials and Processes in Manufacturing (9th ed.),” Wiley (2003).

⁴ *Id.*

⁵ See Reliance Foundry Co. Ltd. website on Foundry Production for a description of different methods of casting. Available at <http://www.reliance-foundry.com/foundry-production/> (last visited Feb. 7, 2012).

⁶ See “Casting” article.

⁷ See World Foundry Organization website Modern Castings and the American Foundry Society, *44th Census of World Casting Production* (2010), available at <http://thewfo.com/Page.aspx?pageId=11> (last visited Feb. 7, 2012).

Government Property Taxation

Florida law generally exempts government property from ad valorem taxation.⁸

Portions of governmental property may be leased to private parties. In instances where the government leases property to a private party, the lease is called a “governmental leasehold” and is subject to tax as “intangible personal property.”⁹

Effective January 1, 2007, ch. 2006-312, L.O F., repealed the annual tax on intangible personal property such as stocks, bonds, mutual funds, money market funds, and unsecured notes.¹⁰ The repeal did not include the following two taxes:

- The nonrecurring tax on a note, bond, or other obligation for payment of money that is secured by a mortgage deed or other lien on real property. Taxpayers who are lending money secured by a mortgage on Florida real property must still pay the nonrecurring intangible tax. These payments are generally made to the Clerk of Court in the county where the instrument is recorded.¹¹ The proceeds of this tax are deposited into the General Fund.
- The recurring tax on the lease of real property owned by a government and leased to a non-governmental entity when rental payments are due. Taxpayers that lease property from a governmental entity must still file and pay the governmental leasehold intangible tax annually, if the amount of tax owed before discount is \$60 or more.¹² The proceeds of this tax are returned to the local school board for the county in which the property subject to the leasehold is situated.

In Boca Airport, Inc. v. Florida Department of Revenue, 56 So. 3d 140 (Fla. 4th DCA 2011), the court determined that the intangible tax on governmental leaseholds applied to fixed base operators¹³ leasing airport property from the county.

III. Effect of Proposed Changes:

Section 1 amends s. 196.199, F.S., to provide that lessees of governmental property that perform a governmental, municipal or public function are exempt from the intangible tax. This section of the bill is effective upon becoming a law and applies retroactively to all leases of governmental property in existence as of January 1, 2012.

⁸ See s. 196.199, F.S. Subject to certain conditions, property of the United States, property of Florida and property of political subdivisions and municipalities of the state are exempt from ad valorem taxation.

⁹ See s. 196.199(2)(b), F.S. Section 192.001 (11)(b) defines “intangible personal property” as money, all evidences of debt owed to the taxpayer, all evidences of ownership in a corporation or other business organization having multiple owners, and all other forms of property where value is based upon that which the property represents rather than its own intrinsic value.

¹⁰ Florida Department of Revenue, *2007 Tax Information Publication #07C02-01* (Jan 2, 2007), available at <http://dor.myflorida.com/dor/tips/tip07c02-01.html> (last visited Feb. 14, 2012).

¹¹ *Id.*

¹² *Id.*

¹³ Fixed base operators provide goods and services to the general aviation public by offering hanger space for private and commercial aircraft, aviation fuel, aircraft repairs, tie-down services, and amenities for pilots and the general public in the form of food, beverages, ground transportation, and reservations for rental cars and lodging.

Section 2 creates s. 212.08(7)(hhh), F.S., to establish a sales tax exemption for items used in manufacturing and fabricating aircraft and gas turbine engines. The CS exempts chemicals, machinery, parts, and equipment used and consumed in the manufacture or fabrication of aircraft and gas turbine engines.

Items exempted include cores, electrical discharge machining supplies, brass electrodes, ceramic guides, grinding and deburring wheels, Norton vortex wheels, argon, nitrogen, helium, fluid abrasive cutters, solvents and soaps, borescopes, penetrants, patterns, dies, and molds consumed in the production of castings.

Section 3 provides that except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution, excuses counties and municipalities from complying with laws requiring them to spend funds or to take an action unless certain conditions are met.

Subsection (b) of the provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce county or municipal aggregate revenue generating authority as it existed on February 1, 1989. The exception to this prohibition is if the Legislature passes such a law by two-thirds of the membership of each chamber.

Subsection (d) provides an exemption from this prohibition. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 (which is \$1.88 million for FY 2012-13), are exempt.

The Revenue Estimating Conference (REC) estimated that the provisions of this CS related to aircraft and gas turbine engines will have a \$300,000 negative fiscal impact annually on local governments.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The REC estimated the impact of the CS related to sales and use tax for certain items used to manufacture and produce aircraft and gas turbine engines on December 12, 2011. The REC adopted a recurring negative impact of \$1.3 million to general revenue and a recurring negative impact of \$300,000 to local funds each year.¹⁴

The REC has not reviewed the impact of this CS related to the intangible tax for lessees performing a governmental, municipal or public purpose function. However, as drafted, committee staff believe that the impact of this provision could be substantial and may require payment of refunds of intangible tax.

B. Private Sector Impact:

Purchasers of the cited items used in the manufacture of aircraft and gas turbine engines will benefit from the exemption of these items from taxes. Lessees performing a governmental, municipal or public purpose function will be exempt from the intangible tax.

C. Government Sector Impact:

The Department of Revenue (DOR) has indicated that the aircraft and gas turbine engines provisions of this CS would have an insignificant impact on its operations. The DOR has yet to formally analyze the implications of the intangible tax provisions of the CS.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Turbine engines are classified by the type of fluid used to drive the engine. In general, the manufacturing process for all engines is the same and uses the same materials (cores, patterns, dies, and molds), although they may vary by type of metal. The exemption provided by this CS is limited to manufacturing and fabricating aircraft and gas turbine engines. The items cited for exemption which are used for other types of manufacturing would not be eligible for the exemption.

¹⁴ Office of Economic and Demographic Research, The Florida Legislature, *Revenue Estimating Conference for 2012 Regular Session – Exemption on Gas Turbine Manufacturers, HB 939* (December 12, 2011), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page174-178.pdf> (last visited Feb. 8, 2012).

VIII. 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 February 13, 2012:

This committee substitute provides an exemption from intangible tax for lessees performing a governmental, municipal or public purpose function.

CS by Commerce and Tourism on February 2, 2012:

This committee substitute combined the two separately stated exemptions in the original bill into one.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2012	.	
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The Committee on Budget Subcommittee on Finance and Tax (Altman) recommended the following:

Senate Amendment (with title amendment)

Between lines 70 and 71
insert:

Section 3. Effective January 1, 2013, paragraph (b) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

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



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13 chapter.

14 (5) EXEMPTIONS; ACCOUNT OF USE.—

15 (b) *Machinery and equipment used to increase productive*
16 *output.*—

17 1. Industrial machinery and equipment purchased for
18 exclusive use by a new business in spaceport activities as
19 defined by s. 212.02 or for use in new businesses that
20 manufacture, process, compound, or produce for sale items of
21 tangible personal property at fixed locations are exempt from
22 the tax imposed by this chapter upon an affirmative showing by
23 the taxpayer to the satisfaction of the department that such
24 items are used in a new business in this state. Such purchases
25 must be made before ~~prior to~~ the date the business first begins
26 its productive operations, and delivery of the purchased item
27 must be made within 12 months after that date.

28 2. Industrial machinery and equipment purchased for
29 exclusive use by an expanding facility which is engaged in
30 spaceport activities as defined by s. 212.02 or for use in
31 expanding manufacturing facilities or plant units which
32 manufacture, process, compound, or produce for sale items of
33 tangible personal property at fixed locations in this state are
34 exempt from any amount of tax imposed by this chapter upon an
35 affirmative showing by the taxpayer to the satisfaction of the
36 department that such items are used to increase the productive
37 output of such expanded facility or business by not less than 5
38 ~~10~~ percent.

39 3.a. To receive an exemption provided by subparagraph 1. or
40 subparagraph 2., a qualifying business entity shall apply to the
41 department for a temporary tax exemption permit. The application



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42 shall state that a new business exemption or expanded business
43 exemption is being sought. Upon a tentative affirmative
44 determination by the department pursuant to subparagraph 1. or
45 subparagraph 2., the department shall issue such permit.

46 b. The applicant shall maintain all necessary books and
47 records to support the exemption. Upon completion of purchases
48 of qualified machinery and equipment pursuant to subparagraph 1.
49 or subparagraph 2., the temporary tax permit shall be delivered
50 to the department or returned to the department by certified or
51 registered mail.

52 c. If, in a subsequent audit conducted by the department,
53 it is determined that the machinery and equipment purchased as
54 exempt under subparagraph 1. or subparagraph 2. did not meet the
55 criteria mandated by this paragraph or if commencement of
56 production did not occur, the amount of taxes exempted at the
57 time of purchase shall immediately be due and payable to the
58 department by the business entity, together with the appropriate
59 interest and penalty, computed from the date of purchase, in the
60 manner prescribed by this chapter.

61 d. If a qualifying business entity fails to apply for a
62 temporary exemption permit or if the tentative determination by
63 the department required to obtain a temporary exemption permit
64 is negative, a qualifying business entity shall receive the
65 exemption provided in subparagraph 1. or subparagraph 2. through
66 a refund of previously paid taxes. No refund may be made for
67 such taxes unless the criteria mandated by subparagraph 1. or
68 subparagraph 2. have been met and commencement of production has
69 occurred.

70 4. The department shall adopt rules governing applications



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71 for, issuance of, and the form of temporary tax exemption
72 permits; provisions for recapture of taxes; and the manner and
73 form of refund applications, and may establish guidelines as to
74 the requisites for an affirmative showing of increased
75 productive output, commencement of production, and qualification
76 for exemption.

77 5. The exemptions provided in subparagraphs 1. and 2. do
78 not apply to machinery or equipment purchased or used by
79 electric utility companies, communications companies, oil or gas
80 exploration or production operations, publishing firms that do
81 not export at least 50 percent of their finished product out of
82 the state, any firm subject to regulation by the Division of
83 Hotels and Restaurants of the Department of Business and
84 Professional Regulation, or any firm that does not manufacture,
85 process, compound, or produce for sale items of tangible
86 personal property or that does not use such machinery and
87 equipment in spaceport activities as required by this paragraph.
88 The exemptions provided in subparagraphs 1. and 2. shall apply
89 to machinery and equipment purchased for use in phosphate or
90 other solid minerals severance, mining, or processing
91 operations.

92 6. For the purposes of the exemptions provided in
93 subparagraphs 1. and 2., these terms have the following
94 meanings:

95 a. "Industrial machinery and equipment" means tangible
96 personal property or other property that has a depreciable life
97 of 3 years or more and that is used as an integral part in the
98 manufacturing, processing, compounding, or production of
99 tangible personal property for sale or is exclusively used in



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100 spaceport activities. A building and its structural components
101 are not industrial machinery and equipment unless the building
102 or structural component is so closely related to the industrial
103 machinery and equipment that it houses or supports that the
104 building or structural component can be expected to be replaced
105 when the machinery and equipment are replaced. Heating and air-
106 conditioning systems are not industrial machinery and equipment
107 unless the sole justification for their installation is to meet
108 the requirements of the production process, even though the
109 system may provide incidental comfort to employees or serve, to
110 an insubstantial degree, nonproduction activities. The term
111 includes parts and accessories only to the extent that the
112 exemption thereof is consistent with the provisions of this
113 paragraph.

114 b. "Productive output" means the number of units actually
115 produced by a single plant, operation, or product line in a
116 single continuous 12-month period, irrespective of sales.
117 Increases in productive output shall be measured by the output
118 for 12 continuous months selected by the expanding business
119 after ~~following the~~ completion of the installation of such
120 machinery or equipment over the output for the 12 continuous
121 months immediately preceding such installation. However, in no
122 case may such time period begin later than 2 years after
123 ~~following the~~ completion of the installation of the new
124 machinery and equipment. The units used to measure productive
125 output shall be physically comparable between the two periods,
126 irrespective of sales.

127 Section 4. Effective January 1, 2013, and applying to tax
128 years beginning on or after January 1, 2013, subsection (1) of



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129 section 220.14, Florida Statutes, is amended to read:

130 220.14 Exemption.—

131 (1) In computing a taxpayer's liability for tax under this
132 code, there shall be exempt from the tax \$50,000 ~~\$25,000~~ of net
133 income as defined in s. 220.12 or such lesser amount as will,
134 without increasing the taxpayer's federal income tax liability,
135 provide the state with an amount under this code which is equal
136 to the maximum federal income tax credit which may be available
137 from time to time under federal law.

138 Section 5. Effective January 1, 2013, and applying to tax
139 years beginning on or after January 1, 2013, subsection (3) of
140 section 220.63, Florida Statutes, is amended to read:

141 220.63 Franchise tax imposed on banks and savings
142 associations.—

143 (3) For purposes of this part, the franchise tax base shall
144 be adjusted federal income, as defined in s. 220.13, apportioned
145 to this state, plus nonbusiness income allocated to this state
146 pursuant to s. 220.16, less the deduction allowed in subsection
147 (5) and less \$50,000 ~~\$25,000~~.

148 Section 6. (1) The executive director of the Department of
149 Revenue is authorized, and all conditions are deemed met, to
150 adopt emergency rules under ss. 120.536(1) and 120.54(4),
151 Florida Statutes, for the purpose of implementing this act.

152 (2) Notwithstanding any provision of law, such emergency
153 rules shall remain in effect for 6 months after the date adopted
154 and may be renewed during the pendency of procedures to adopt
155 permanent rules addressing the subject of the emergency rules.

156
157 ===== T I T L E A M E N D M E N T =====



122096

158 And the title is amended as follows:

159 Between lines 9 and 10

160 insert:

161 revising provisions relating to an exemption for
162 machinery and equipment used to increase productive
163 output; amending s. 220.14, F.S.; increasing the
164 amount of income that is exempt from taxation;
165 providing applicability; amending s. 220.63, F.S.;
166 increasing the amount of income that is exempt from
167 the franchise tax imposed on banks and savings
168 associations; providing applicability; authorizing the
169 executive director of the Department of Revenue to
170 adopt emergency rules;



116190

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2012	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Finance and Tax (Altman) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 70 and 71
insert:

Section 3. The amendment to s. 196.199, Florida Statutes, made by this act shall take effect upon this act becoming a law and shall apply retroactively to all governmental leaseholds in existence as of January 1, 2011. This section is intended to be remedial in nature and does not create a right to a refund or require any governmental entity to refund any tax, penalty, or interest remitted to the Department of Revenue before the effective date of this act.



116190

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

And the directory clause is amended as follows:

Delete lines 14 - 17

and insert:

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

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

And the title is amended as follows:

Delete lines 5 - 9

and insert:

public purpose or function; amending s. 212.08, F.S.;
exempting certain items used to manufacture, produce,
or modify aircraft engines and gas turbine engines and
parts from the tax on sales, use, and other
transactions; providing for retroactive application;
clarifying that certain provisions of the act are
remedial and do not create a right to a refund;

By the Committees on Community Affairs; and Commerce and
Tourism; and Senator Altman

578-03301-12

20121108c2

1 A bill to be entitled
2 An act relating to taxation; amending s. 196.199,
3 F.S.; providing an exemption from intangible tax for
4 lessees performing a governmental, municipal, or
5 public purpose or function; providing for retroactive
6 application; amending s. 212.08, F.S.; exempting
7 certain items used to manufacture, produce, or modify
8 aircraft engines and gas turbine engines and parts
9 from the tax on sales, use, and other transactions;
10 providing effective dates.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Effective upon this act becoming a law, and
15 applying retroactively to all leases of governmental property in
16 existence as of January 1, 2012, paragraph (a) of subsection (2)
17 of section 196.199, Florida Statutes, is amended to read:

18 196.199 Government property exemption.—

19 (2) Property owned by the following governmental units but
20 used by nongovernmental lessees shall only be exempt from
21 taxation under the following conditions:

22 (a) Leasehold interests in property of the United States,
23 of the state or any of its several political subdivisions, or of
24 municipalities, agencies, authorities, and other public bodies
25 corporate of the state shall be exempt from ad valorem taxation
26 and the intangible tax referenced in paragraph (b) only when the
27 lessee serves or performs a governmental, municipal, or public
28 purpose or function, as defined in s. 196.012(6). In all such
29 cases, all other interests in the leased property shall also be

Page 1 of 3

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

578-03301-12

20121108c2

30 exempt from ad valorem taxation. However, a leasehold interest
31 in property of the state may not be exempted from ad valorem
32 taxation when a nongovernmental lessee uses such property for
33 the operation of a multipurpose hazardous waste treatment
34 facility.

35 Section 2. Paragraph (hhh) is added to subsection (7) of
36 section 212.08, Florida Statutes, to read:

37 212.08 Sales, rental, use, consumption, distribution, and
38 storage tax; specified exemptions.—The sale at retail, the
39 rental, the use, the consumption, the distribution, and the
40 storage to be used or consumed in this state of the following
41 are hereby specifically exempt from the tax imposed by this
42 chapter.

43 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
44 entity by this chapter do not inure to any transaction that is
45 otherwise taxable under this chapter when payment is made by a
46 representative or employee of the entity by any means,
47 including, but not limited to, cash, check, or credit card, even
48 when that representative or employee is subsequently reimbursed
49 by the entity. In addition, exemptions provided to any entity by
50 this subsection do not inure to any transaction that is
51 otherwise taxable under this chapter unless the entity has
52 obtained a sales tax exemption certificate from the department
53 or the entity obtains or provides other documentation as
54 required by the department. Eligible purchases or leases made
55 with such a certificate must be in strict compliance with this
56 subsection and departmental rules, and any person who makes an
57 exempt purchase with a certificate that is not in strict
58 compliance with this subsection and the rules is liable for and

Page 2 of 3

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

578-03301-12

20121108c2

59 shall pay the tax. The department may adopt rules to administer
60 this subsection.

61 (hhh) Items used in manufacturing and fabricating aircraft
62 and gas turbine engines.—Chemicals, machinery, parts, and
63 equipment used and consumed in the manufacture or fabrication of
64 aircraft engines and gas turbine engines, including cores,
65 electrical discharge machining (EDM) supplies, brass electrodes,
66 ceramic guides, reamers, grinding and deburring wheels, Norton
67 vortex wheels, argon, nitrogen, helium, fluid abrasive cutters,
68 solvents and soaps, boroscopes, penetrants, patterns, dies, and
69 molds consumed in the production of castings are exempt from the
70 tax imposed by this chapter.

71 Section 3. Except as otherwise expressly provided in this
72 act and except for this section, which shall take effect upon
73 this act becoming a law, this act shall take effect July 1,
74 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/27/2012
Meeting Date

Topic TAXATION

Bill Number 1108
(if applicable)

Name JOSE L. GONZALEZ

Amendment Barcode _____
(if applicable)

Job Title UP 6007. AFFAIRS

Address 516 N. ADAMS ST

Phone 224-7173

Street
TALLAHASSEE, FL 32301
City State Zip

E-mail josce77@aif.com

Speaking: For Against Information

Representing AIF

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)

2/23/12

Meeting Date

Topic SALES TAX AEROSPACE MFG

Bill Number 1108 (if applicable)

Name JIM MAGILL

Amendment Barcode (if applicable)

Job Title LOBBYIST

Address 101 N. MONROE ST. SUITE 1090

Phone 850-681-0411

TALLAHASSEE FL 32301

E-mail JMAGILL@FOWLERWHITE.COM

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

Representing CHROMALLOY CASTINGS

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

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/23/12

Meeting Date

Topic Taxation

Bill Number SB 1108
(if applicable)

Name Eric Prutsman

Amendment Barcode _____
(if applicable)

Job Title _____

Address P.O. Box 10448

Phone _____

Street

Tallahassee FL 32302

E-mail _____

City

State

Zip

Speaking: For Against Information

Representing Florida Aviation Trades Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-23-12
Meeting Date

Topic _____

Bill Number 1108
(if applicable)

Name MAC STIPANOVICH

Amendment Barcode _____
(if applicable)

Job Title _____

Address TLH FL
Street City State Zip

Phone 545-8141

E-mail _____

Speaking: For Against Information

Representing Chromalloy

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)

2.23.12

Meeting Date

Topic Tax Cuts

Bill Number 1108
(if applicable)

Name Christian Weiss

Amendment Barcode
(if applicable)

Job Title Policy Coordinator

Address 1702 Capitol

Phone 487.1880

Street

TLH

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Gov's Office

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 Budget Subcommittee on Finance and Tax

BILL: SB 1062

INTRODUCER: Senator Detert

SUBJECT: Tangible Personal Property Taxes

DATE: February 23, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Favorable
2.	Babin	Diez-Arguelles	BFT	Favorable
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill implements the proposed constitutional amendment contained in SJR 1064, which grants the Legislature the authority to exempt tangible personal property from ad valorem tax.

Current law provides a \$25,000 exemption for tangible personal property subject to ad valorem tax. This bill waives the requirement to file a tax return when a person’s property has a taxable value of \$25,000 or less, effectively creating an additional exemption for tangible personal property up to \$50,000. If SJR 1064 and this bill are passed, tangible personal property assessed at \$50,000 or below will be fully exempt. Taxpayers with tangible personal property assessed above \$50,000 will not qualify for the additional exemption provided in the bill, and thus only the initial \$25,000 of such property will be exempt.

The bill takes effect upon voter approval of the constitutional amendment proposed by SJR 1064.

This bill substantially amends section 196.183, Florida Statutes.

II. Present Situation:

Ad valorem Taxation

The Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes on real and tangible personal property,¹ and it establishes various requirements that local governments must follow when levying and administering ad valorem taxes. It requires that all

¹ FLA. CONST., art. VII, s. 1(a) and s. 9(a).

ad valorem taxation be at a uniform rate within each taxing unit² and that property be assessed at just value unless the Constitution provides for a different assessment standard.³

Constitutional Provisions for Tangible Personal Property

The following provisions of Article VII of the Florida Constitution relate specifically to tangible personal property:

- Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.⁴
- There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars . . .⁵
- Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.⁶

Tangible personal property not excluded by the above provisions is subject to ad valorem taxation. However, Article VII, section 3(e) of the Florida Constitution, provides for a \$25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation.

Tangible Personal Property⁷

Florida Statutes expand the constitutional exemption for household goods and personal effects, as well as the constitutional exemption for stock in trade (inventory). Pursuant to these statutes, household goods and personal effects, as well as inventory are fully exempt.⁸

Due to the constitutional and statutory provisions, tangible personal property taxes are generally only imposed on non-inventory, business-related tangible personal property in excess of \$25,000.

Anyone owning tangible personal property on January 1, who has a proprietorship, partnership, corporation, is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 each year. Property owners who lease, lend or rent property must also file.

² FLA. CONST., art. VII, s. 2.

³ FLA. CONST., art. VII, s. 4.

⁴ FLA. CONST., art. VII, s. 1(b).

⁵ FLA. CONST., art. VII, s. 3(b).

⁶ FLA. CONST., art. VII, s. 4(c).

⁷ See the Florida Department of Revenue website for additional information about tangible personal property and appraiser guidelines <http://dor.myflorida.com/dor/property/tpp/>.

⁸ See ss. 196.181 and 196.185, Florida Statutes.

Section 196.183(1), F.S., provides that a single return must be filed for each site in the county where the owner of tangible personal property transacts business. Owners of freestanding property placed at multiple sites, other than sites where the owner transacts business, must file a single return, which must include all such property located in the county and the location of the property. Freestanding property placed at multiple sites includes vending and amusement machines, LP/propane tanks, utility and cable company property, billboards, leased equipment, and similar property that is not customarily located in the offices, stores, or plants of the owner, but is placed throughout the county.

Section 196.183(3), F.S., waives the return filing requirement under s. 193.052, F.S.,⁹ for taxpayers owning taxable property the value of which, as listed on the return, does not exceed the \$25,000 exemption. In order to qualify for this waiver, a taxpayer must file an initial return on which the exemption is taken. If, in subsequent years, the taxpayer owns taxable property the value of which, as listed on the return, exceeds the exemption, the taxpayer is obligated to file a return. The taxpayer may again qualify for the waiver only after filing a return on which the value as listed on the return does not exceed the exemption. A return filed or required to be filed shall be considered an application filed or required to be filed for the exemption under this section.

Department of Revenue Data on Property Taxes

Information provided by the Department of Revenue shows that, state-wide, tangible personal property taxes levied by counties represented 7.6% of the total county property taxes levied in FY 2011-12. Tangible personal property taxes levied by municipalities represented 6.1% of the total municipal property taxes levied in FY 2011-12.¹⁰

Individual county and municipality distribution of taxes levied by property type are also available on the DOR website.¹¹

III. Effect of Proposed Changes:

Section 1 amends s. 196.183, F.S., to provide that the annual tangible personal property filing requirement is waived for taxpayers who own taxable personal property:

- the value of which, as listed on the return, does not exceed the exemption provided in s. 196.183, F.S; or
- the taxable value of which is \$25,000 or less.

In addition, this section of the bill provides that in order to qualify for the filing waiver, a taxpayer must file an initial return disclosing the taxable value of the property. The taxpayer will not incur any tax liability as a result of this filing. The taxpayer is not required to file another return until the taxable value of the personal property owned by the taxpayer exceeds \$25,000.

⁹ Chapter 193, F.S., governs assessments. Section 193.052, F.S., provides that returns shall be filed for tangible personal property and property specifically required to be returned by other provisions in this title.

¹⁰Florida Department of Revenue *Distribution of Taxes Levied by Property Type, County and Municipal Governments Table: Fiscal Year 2011-12* available at ftp://sdrftp03.dor.state.fl.us/County_Municipal_Data/11table2/statewide_table2.pdf.

¹¹Florida Department of Revenue, *Distribution of Taxes Levied by Property Type - County and Municipal Governments* available at <http://dor.myflorida.com/dor/property/taxpayers/cmdata/table2.html>.

The taxpayer may re-qualify for the waiver by showing that the value of taxable personal property owned by the taxpayer is \$25,000 or less.

The effect of this approach to implementing the constitutional amendment contained in SJR 1064 is that it provides an additional \$25,000 exemption from ad valorem taxation of tangible personal property, but only to persons who report on their returns property valued at \$50,000 or less. If the total value required to be reported on the taxpayer's return exceeds \$50,000, the additional exemption created by this bill is unavailable.

Section 2 provides that this act shall take effect on the same effective date of the amendment to the State Constitution contained in SJR 1064 relating to personal property taxes, and shall apply beginning with the 2013 tax roll.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill implements a constitutional amendment to which the mandates provision of s. 18, Art. VII of the State Constitution, does not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference adopted an indeterminate negative estimate for the bill due to the need for the passage of the constitutional amendment in SJR 1064. Should the amendment and this bill pass, the statewide impact on ad valorem tax collections would be -\$20.1 million in 2013-14, -\$20.3 million in 2014-15, and -\$20.6 million in 2015-16.¹²

¹² Office of Economic and Demographic Research, *Analysis of HB 1005 and SB 1062: Tangible Personal Property Exemption* (Jan. 5, 2012) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page186-187.pdf>.

B. Private Sector Impact:

If this bill had been in effect for the 2011 tax rolls, approximately 156,000 additional taxpayer accounts would have been exempt from the tax. This represents nearly 50% of all accounts with a positive taxable value.¹³

C. Government Sector Impact:

The DOR has determined that the provisions of the bill will necessitate amending of Rule 12D-16.001, F.A.C., to make changes to the DR-405, Return of Tangible Personal Property.¹⁴ The department did not anticipate an operational impact from the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

¹³*Id.*

¹⁴ Florida Department of Revenue, *Analysis of SB 1062: Tangible Personal Property* (Dec. 16, 2012) (on file with the Senate Committee on Community Affairs).

By Senator Detert

23-00816-12

20121062__

A bill to be entitled

An act relating to tangible personal property taxes; amending s. 196.183, F.S.; revising the conditions for a waiver of the requirements to file a tangible personal property tax return; providing for application; providing a contingent effective date.

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

Section 1. Section 196.183, Florida Statutes, is amended to read:

196.183 Exemption for tangible personal property.—

(1) Each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to \$25,000 of assessed value. A single return must be filed for each site in the county where the owner of tangible personal property transacts business. Owners of freestanding property placed at multiple sites, other than sites where the owner transacts business, must file a single return, including all such property located in the county. Freestanding property placed at multiple sites includes vending and amusement machines, LP/propane tanks, utility and cable company property, billboards, leased equipment, and similar property that is not customarily located in the offices, stores, or plants of the owner, but is placed throughout the county. Railroads, private carriers, and other companies assessed pursuant to s. 193.085 shall be allowed one \$25,000 exemption for each county to which the value of their property is allocated. The \$25,000 exemption for freestanding property placed at multiple locations and for centrally assessed

Page 1 of 4

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23-00816-12

20121062__

property shall be allocated to each taxing authority based on the proportion of just value of such property located in the taxing authority; however, the amount of the exemption allocated to each taxing authority may not change following the extension of the tax roll pursuant to s. 193.122.

(2) For purposes of this section, a "site where the owner of tangible personal property transacts business" includes facilities where the business ships or receives goods, employees of the business are located, goods or equipment of the business are stored, or goods or services of the business are produced, manufactured, or developed, or similar facilities located in offices, stores, warehouses, plants, or other locations of the business. Sites where only the freestanding property of the owner is located shall not be considered sites where the owner of tangible personal property transacts business.

(3) The requirement that an annual tangible personal property tax return pursuant to s. 193.052 be filed is waived for taxpayers who own ~~owning~~ taxable personal property:

(a) The value of which, as listed on the return, does not exceed the exemption provided in this section; or

(b) The taxable value of which is \$25,000 or less waived.

(4) (a) In order to qualify for the ~~this~~ waiver under paragraph (3) (a), a taxpayer must file an initial return on which the exemption is taken. If, in subsequent years, the taxpayer owns taxable property the value of which, as listed on the return, exceeds the exemption, the taxpayer is obligated to file a return. The taxpayer may again qualify for the waiver only after filing a return on which the value as listed on the return does not exceed the exemption. A return filed or required

Page 2 of 4

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

23-00816-12 20121062__
 59 to be filed shall be considered an application filed or required
 60 to be filed for the exemption under this section.

61 (b) In order to qualify for the waiver under paragraph
 62 (3) (b), a taxpayer must file an initial return disclosing the
 63 taxable value of property but will not incur any tax liability
 64 as a result of this filing. The taxpayer is not required to file
 65 another return until the value of taxable personal property
 66 owned by the taxpayer exceeds \$25,000. The taxpayer may
 67 requalify for the waiver by filing a return showing that the
 68 value of the taxable personal property owned by the taxpayer is
 69 \$25,000 or less.

70 (5) (4) Owners of property previously assessed by the
 71 property appraiser without a return being filed may, at the
 72 option of the property appraiser, qualify for the exemption
 73 under this section without filing an initial return.

74 (6) (5) The exemption provided in this section does not
 75 apply in any year a taxpayer fails to timely file a return that
 76 is not waived pursuant to subsection (3) or subsection (5) (4).
 77 Any taxpayer who received a waiver pursuant to subsection (3) or
 78 subsection (5) (4) and who owns taxable property the value of
 79 which, as listed on the return, exceeds the exemption in a
 80 subsequent year and who fails to file a return with the property
 81 appraiser is subject to the penalty contained in s.
 82 193.072(1)(a) calculated without the benefit of the exemption
 83 pursuant to this section. Any taxpayer claiming more exemptions
 84 than allowed pursuant to subsection (1) is subject to the taxes
 85 exempted as a result of wrongfully claiming the additional
 86 exemptions plus 15 percent interest per annum and a penalty of
 87 50 percent of the taxes exempted. By February 1 of each year,

23-00816-12 20121062__
 88 the property appraiser shall notify by mail all taxpayers whose
 89 requirement for filing an annual tangible personal property tax
 90 return was waived in the previous year. The notification shall
 91 state that a return must be filed if the value of the taxpayer's
 92 tangible personal property exceeds the exemption and include the
 93 penalties for failure to file such a return.

94 (7) (6) The exemption provided in this section does not
 95 apply to a mobile home that is presumed to be tangible personal
 96 property pursuant to s. 193.075(2).

97 Section 2. This act shall take effect on the same effective
 98 date of the amendment to the State Constitution contained in
 99 Senate Joint Resolution ____, or a similar constitutional
 100 amendment, relating to tangible personal property taxes, and
 101 shall apply beginning with the 2013 tax roll.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic _____

Bill Number 1062
(if applicable)

Name JOSE L. GONZALEZ

Amendment Barcode _____
(if applicable)

Job Title VP GOVT.

Address 576 N. ADAMS

Phone _____

Street

TALLMASSIE, FL 33301

E-mail _____

City

State

Zip

Speaking: For Against Information

Representing AIF

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)

2/23/12
Meeting Date

Topic _____

Bill Number 1064/1062
(if applicable)

Name Frank Meiners

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 1633

Phone 850 591-0177

Street

Tall FL 32501

City

State

Zip

E-mail frank@chymail.com

Speaking: For Against Information

Representing Assoc. Ind of FL

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 Budget Subcommittee on Finance and Tax

BILL: SJR 1064

INTRODUCER: Senator Detert

SUBJECT: Tangible Personal Property

DATE: February 16, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	Fav/1 amendment
2.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>BFT</u>	Pre-meeting
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This joint resolution proposes an amendment to Article VII, section 3 of the Florida Constitution, that would allow the Legislature to provide by general law that:

- An item of tangible personal property is subject to taxation at a specified percentage of its assessed value;
- A specific item of tangible personal property is exempt from taxation; or
- A person is exempt from paying tangible personal property tax if the amount of tax due does not substantially exceed the cost to administer the tax.

For the proposed amendment to be placed on the ballot at the general election in November 2012, the Legislature must approve the joint resolution by a three-fifths vote of the membership of each house of the Legislature.

The joint resolution proposes an amendment to Article VII, section 3 of the Florida Constitution.

II. Present Situation:

Ad valorem Taxation

The Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes on real and tangible personal property,¹ and it establishes various requirements that local governments must follow when levying and administering ad valorem taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing unit² and that property be assessed at just value unless the Constitution provides for a different assessment standard.³

Constitutional Provisions for Tangible Personal Property

The following provisions of Article VII of the Florida Constitution relate specifically to tangible personal property:

- Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.⁴
- There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars . . .⁵
- Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.⁶

Tangible personal property not excluded by the above provisions is subject to ad valorem taxation. However, Article VII, section 3(e) of the Florida Constitution, provides for a \$25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation.

Tangible Personal Property⁷

Florida Statutes expand the constitutional exemption for household goods and personal effects, as well as the constitutional exemption for stock in trade (inventory). Pursuant to these statutes, household goods and personal effects, as well as inventory are fully exempt.⁸

Due to constitutional and statutory provisions, tangible personal property taxes are generally only imposed on non-inventory, business-related tangible personal property in excess of \$25,000.

¹ FLA. CONST., art. VII, s. 1(a) and s. 9(a).

² FLA. CONST., art. VII, s. 2.

³ FLA. CONST., art. VII, s. 4.

⁴ FLA. CONST., art. VII, s. 1(b).

⁵ FLA. CONST., art. VII, s. 3(b).

⁶ FLA. CONST., art. VII, s. 4(c).

⁷ See the Florida Department of Revenue website for additional information about tangible personal property and appraiser guidelines <http://dor.myflorida.com/dor/property/tpp/>.

⁸ See ss. 196.181 and 196.185, Florida Statutes.

Anyone owning tangible personal property on January 1, who has a proprietorship, partnership, corporation, is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 each year. Property owners who lease, lend or rent property must also file.

Information provided by the Department of Revenue shows that, state-wide, tangible personal property taxes levied by counties represented 7.6% of the total county property taxes levied in FY 2011-12. Taxes levied by municipalities represented 6.1% of the total municipal property taxes levied in FY 2011-12.⁹

Individual county and municipality distribution of taxes levied by property type are also available on the DOR website.¹⁰

III. Effect of Proposed Changes:

This joint resolution proposes an amendment to Article VII, section 3 of the Florida Constitution, that would allow the Legislature to provide by general law that:

- An item of tangible personal property is subject to taxation at a specified percentage of its assessed value;
- A specific item of tangible personal property is exempt from taxation; or
- A person is exempt from paying tangible personal property tax if the amount of tax due does not substantially exceed the cost to administer the tax.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions Article VII, section 18, of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Constitutional Amendments

⁹Florida Department of Revenue *Distribution of Taxes Levied by Property Type, County and Municipal Governments Table: Fiscal Year 2011-12* available at ftp://sdrftp03.dor.state.fl.us/County_Municipal_Data/11table2/statewide_table2.pdf. (last visited Feb. 18, 2012).

¹⁰Florida Department of Revenue, *Distribution of Taxes Levied by Property Type - County and Municipal Governments* available at <http://dor.myflorida.com/dor/property/taxpayers/cmdata/table2.html>. (last visited Feb. 18, 2012).

Article XI, section 1 of the Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year.

Article XI, section 5(e) of the Florida Constitution, requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

Article XI, section 5(a) of the Florida Constitution, and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”¹¹

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) discussed the impact of this joint resolution on January 5, 2012. The conference adopted an indeterminate negative estimate, due to the need for the electorate to approve the measure, and for the Legislature to pass implementing legislation. The constitutional change allows the Legislature to completely exempt tangible personal property from ad valorem taxation. The conference found that, based on the 2011 millage rate of 17.67, ad valorem taxes on the tangible personal property included on the 2011 tax roll are expected to amount to \$1.72 billion.¹²

¹¹ *Roberts v. Doyle*, 43 So. 3d at 659 (Fla. 2010), citing *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008).

¹² Office of Economic and Demographic Research, The Florida Legislature, *Impact Analysis of HJR 1003 and SJR 1064: Tangible Personal Property* (Jan. 5, 2012) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page184-185.pdf>.

B. Private Sector Impact:

If the proposed amendment is approved by the electorate and implemented by the Legislature, residents of Florida who pay tangible personal property taxes may realize a reduction or total elimination of these taxes. To the extent that local governments do not raise millage rates to offset the reduction in the tax base, taxpayers may experience a reduction in government and education services due to reductions in ad valorem tax revenues.

C. Government Sector Impact:

If the proposed amendment is approved by the electorate and implemented by the Legislature, local governments may experience a reduction in revenues generated by tangible personal property taxes.

The Division of Elections within the Department of State estimated that the full publication costs for advertising a similar proposed amendment, HJR 1003, to be \$108,475.¹³

VI. Technical Deficiencies:

Amendment barcode 127370 was adopted by the Committee on Community Affairs in order to include a schedule for the new constitutional provision. However, the amendment does not include language in the title of the ballot summary indicating that Article XII, Section 32 of the State Constitution is part of the proposed amendment to the Constitution.

VII. Related Issues:

None.

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

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

None.

B. Amendments:**Barcode 127370 by Community Affairs on February 6, 2012:**

Creates section 32 of Article XII of the Florida Constitution stating that the amendment to Section 3 of Article VII providing the Legislature with more flexibility in assessing and exempting tangible personal property from ad valorem taxation shall take effect upon approval by the electors and apply to assessments for tax years beginning January 1, 2013. (WITH TITLE AMENDMENT)

¹³ Department of State, *House Joint Resolution 1003 (2012) Fiscal Analysis* (Dec.21, 2011) (On file with the Senate Committee on Community Affairs).

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



858192

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2012	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Finance and Tax (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the resolving clause
and insert:

That the following amendment to Section 3 of Article VII
and the creation of Section 32 of Article XII of the State
Constitution are agreed to and shall be submitted to the
electors of this state for approval or rejection at the next
general election or at an earlier special election specifically
authorized by law for that purpose:

ARTICLE VII
FINANCE AND TAXATION



858192

13 SECTION 3. Taxes; exemptions.-

14 (a) All property owned by a municipality and used
15 exclusively by it for municipal or public purposes is ~~shall be~~
16 exempt from taxation. A municipality, owning property outside
17 the municipality, may be required by general law to make payment
18 to the taxing unit in which the property is located. Such
19 portions of property as are used predominantly for educational,
20 literary, scientific, religious, or charitable purposes may be
21 exempted by general law from taxation.

22 (b) There shall be exempt from taxation, cumulatively, to
23 every head of a family residing in this state, household goods
24 and personal effects to the value fixed by general law, not less
25 than one thousand dollars, and to every widow or widower or
26 person who is blind or totally and permanently disabled,
27 property to the value fixed by general law not less than five
28 hundred dollars.

29 (c) Any county or municipality may, for the purpose of its
30 respective tax levy and subject to the provisions of this
31 subsection and general law, grant community and economic
32 development ad valorem tax exemptions to new businesses and
33 expansions of existing businesses, as defined by general law.
34 Such an exemption may be granted only by ordinance of the county
35 or municipality, and only after the electors of the county or
36 municipality voting on such question in a referendum authorize
37 the county or municipality to adopt such ordinances. An
38 exemption so granted shall apply to improvements to real
39 property made by or for the use of a new business and
40 improvements to real property related to the expansion of an
41 existing business and shall also apply to tangible personal



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42 property of such new business and tangible personal property
43 related to the expansion of an existing business. The amount or
44 limits of the amount of such exemption shall be specified by
45 general law. The period of time for which such exemption may be
46 granted to a new business or expansion of an existing business
47 shall be determined by general law. The authority to grant such
48 exemption shall expire ten years from the date of approval by
49 the electors of the county or municipality, and may be renewable
50 by referendum as provided by general law.

51 (d) Any county or municipality may, for the purpose of its
52 respective tax levy and subject to the provisions of this
53 subsection and general law, grant historic preservation ad
54 valorem tax exemptions to owners of historic properties. This
55 exemption may be granted only by ordinance of the county or
56 municipality. The amount or limits of the amount of this
57 exemption and the requirements for eligible properties must be
58 specified by general law. The period of time for which this
59 exemption may be granted to a property owner shall be determined
60 by general law.

61 (e)1. By general law and subject to conditions specified
62 therein, twenty-five thousand dollars of the assessed value of
63 tangible personal property is subject to tangible personal
64 property tax shall be exempt from ad valorem taxation. Tangible
65 personal property is also exempt from ad valorem taxation if the
66 assessed value of such property is greater than twenty-five
67 thousand dollars but less than fifty thousand dollars.

68 2. A county or municipality may, for the purposes of its
69 respective tax levy and subject to the provisions of this
70 subsection and general law, provide additional tangible personal



858192

71 property tax exemptions by ordinance.

72 (f) There shall be granted an ad valorem tax exemption for
73 real property dedicated in perpetuity for conservation purposes,
74 including real property encumbered by perpetual conservation
75 easements or by other perpetual conservation protections, as
76 defined by general law.

77 (g) By general law and subject to the conditions specified
78 therein, each person who receives a homestead exemption as
79 provided in section 6 of this article; who was a member of the
80 United States military or military reserves, the United States
81 Coast Guard or its reserves, or the Florida National Guard; and
82 who was deployed during the preceding calendar year on active
83 duty outside the continental United States, Alaska, or Hawaii in
84 support of military operations designated by the legislature
85 shall receive an additional exemption equal to a percentage of
86 the taxable value of his or her homestead property. The
87 applicable percentage shall be calculated as the number of days
88 during the preceding calendar year the person was deployed on
89 active duty outside the continental United States, Alaska, or
90 Hawaii in support of military operations designated by the
91 legislature divided by the number of days in that year.

92 ARTICLE XII

93 SCHEDULE

94 SECTION 32. Tangible personal property; ad valorem tax
95 exemption.—The amendment to Section 3 of Article VII providing
96 that property is exempt from tangible personal property tax if
97 the assessed value of such property is greater than twenty-five
98 thousand dollars but less than fifty-thousand dollars applies to
99 assessments for tax years beginning January 1, 2013.



858192

100 BE IT FURTHER RESOLVED that the following statement be
101 placed on the ballot:

102 CONSTITUTIONAL AMENDMENT

103 ARTICLE VII, SECTION 3

104 ARTICLE XII, SECTION 32

105 PROPERTY TAX EXEMPTION.—Proposing an amendment to the State
106 Constitution to:

107 (1) Provide an exemption from ad valorem taxes on tangible
108 personal property if the assessed value of an owner's tangible
109 personal property is greater than \$25,000 but less than \$50,000
110 dollars. This additional exemption, if approved by the voters,
111 will take effect on January 1, 2013, and apply to the 2013 tax
112 roll.

113 (2) Authorize a county or municipality, for the purpose of
114 its respective levy and subject to general law, to provide
115 tangible personal property tax exemptions by ordinance. This is
116 in addition to other statewide tangible personal property
117 exemptions already provided by the Constitution.

118
119 ===== T I T L E A M E N D M E N T =====

120 And the title is amended as follows:

121 Delete everything before the resolving clause
122 and insert:

123 Senate Joint Resolution

124 A joint resolution proposing an amendment to Section 3
125 of Article VII and the creation of Section 32 of
126 Article XII of the State Constitution to provide an
127 additional exemption from ad valorem taxes on tangible
128 personal property valued at more than \$25,000 but less



129 than \$50,000, to authorize a county or municipality to
130 provide an additional exemption from ad valorem
131 taxation for tangible personal property by ordinance,
132 and to provide an effective date.

By Senator Detert

23-00812-12

20121064__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 3 of Article VII of the State Constitution to authorize the Legislature to have more flexibility in providing for the assessment and exemption of tangible personal property from ad valorem taxation.

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

That the following amendment to Section 3 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious, or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or

Page 1 of 5

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

23-00812-12

20121064__

person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(c) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting on such question in a referendum authorize the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

(d) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant historic preservation ad valorem tax exemptions to owners of historic properties. This

Page 2 of 5

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

23-00812-12 20121064
 59 exemption may be granted only by ordinance of the county or
 60 municipality. The amount or limits of the amount of this
 61 exemption and the requirements for eligible properties must be
 62 specified by general law. The period of time for which this
 63 exemption may be granted to a property owner shall be determined
 64 by general law.

65 (e) By general law and subject to conditions specified
 66 therein, the legislature shall exempt at least twenty-five
 67 thousand dollars of the assessed value of property subject to
 68 tangible personal property tax shall be exempt from ad valorem
 69 taxation. Such law may also:

70 (1) Provide for the assessment of an item of tangible
 71 personal property at a specified percentage of its value;

72 (2) Specify an item of tangible personal property that is
 73 exempt from ad valorem taxation; or

74 (3) Exempt a person from paying a tangible personal
 75 property tax if the amount of the tax otherwise due does not
 76 substantially exceed the cost, as determined by the legislature,
 77 to administer the tax.

78 (f) There shall be granted an ad valorem tax exemption for
 79 real property dedicated in perpetuity for conservation purposes,
 80 including real property encumbered by perpetual conservation
 81 easements or by other perpetual conservation protections, as
 82 defined by general law.

83 (g) By general law and subject to the conditions specified
 84 therein, each person who receives a homestead exemption as
 85 provided in section 6 of this article; who was a member of the
 86 United States military or military reserves, the United States
 87 Coast Guard or its reserves, or the Florida National Guard; and

23-00812-12 20121064
 88 who was deployed during the preceding calendar year on active
 89 duty outside the continental United States, Alaska, or Hawaii in
 90 support of military operations designated by the legislature
 91 shall receive an additional exemption equal to a percentage of
 92 the taxable value of his or her homestead property. The
 93 applicable percentage shall be calculated as the number of days
 94 during the preceding calendar year the person was deployed on
 95 active duty outside the continental United States, Alaska, or
 96 Hawaii in support of military operations designated by the
 97 legislature divided by the number of days in that year.

98 BE IT FURTHER RESOLVED that the following statement be
 99 placed on the ballot:

100 CONSTITUTIONAL AMENDMENT

101 ARTICLE VII, SECTION 3

102 TANGIBLE PERSONAL PROPERTY TAXES.—The State Constitution
 103 provides that counties, school districts, and municipalities,
 104 shall, and special districts may, be authorized by the
 105 Legislature to levy a tax on the value of tangible personal
 106 property. The State Constitution further authorizes the
 107 Legislature to exempt \$25,000 of the value of the tangible
 108 personal property from the tax.

109 This proposed amendment to the State Constitution
 110 authorizes the Legislature to:

111 (1) Increase the value of tangible personal property that
 112 is exempt from tangible personal property taxes;

113 (2) Provide for the assessment of an item of tangible
 114 personal property at a specified percentage of its value;

115 (3) Identify items of tangible personal property that are
 116 exempt from taxation; and

23-00812-12

20121064__

117 (4) Exempt a person from paying a tangible personal
118 property tax if the amount of the tax otherwise due does not
119 substantially exceed the cost, as determined by the Legislature,
120 to administer the tax.



127370

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/06/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Richter) recommended the following:

Senate Amendment (with ballot and title amendments)

Delete lines 10 - 11
and insert:

That the following amendment to Section 3 of Article VII
and the creation of Section 32 of Article XII of the State
Constitution are agreed to and shall be submitted to

Between lines 97 and 98
insert:

ARTICLE XII
SCHEDULE



127370

13 Section 32. Tangible personal property; ad valorem tax
14 exemption.—The amendment to Section 3 of Article VII providing
15 the legislature with more flexibility in assessing and exempting
16 tangible personal property from ad valorem taxation shall take
17 effect upon approval by the electors and apply to assessments
18 for tax years beginning January 1, 2013.
19

20 ===== B A L L O T S T A T E M E N T A M E N D M E N T =====

21 And the ballot statement is amended as follows:

22 Delete line 109

23 and insert:

24 For tax years beginning January 1, 2013, this proposed
25 amendment to the State Constitution

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

28 And the title is amended as follows:

29 Delete lines 3 - 6

30 and insert:

31 of Article VII and the creation of Section 32 of
32 Article XII of the State Constitution to provide the
33 Legislature with more flexibility in the assessment
34 and exemption of tangible personal property from ad
35 valorem taxation, apply the amendment to assessments
36 for tax years beginning January 1, 2013, and provide
37 an effective date.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/23/12
Meeting Date

Topic _____

Bill Number 1064/1062
(if applicable)

Name Frank Meiners

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 1633

Phone 850 591-0177

Tall FL 32301
City State Zip

E-mail frank@chymail.com

Speaking: For Against Information

Representing Assoc. Ind of FL

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)

Meeting Date _____

Topic Joint Resolution TRP Bill Number 1064-
(if applicable)

Name Chris Doolin Amendment Barcode _____
(if applicable)

Job Title Consultant

Address 314 Cortez St. Phone 224-3180
Street

Tallahassee E-mail cdoolin@nettally.com
City State Zip

Speaking: For Against Information

Representing SMALL COUNTY COALITION

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)

2/23/2012
Meeting Date

Topic _____

Bill Number 1064
(if applicable)

Name JOSE GONZALEZ

Amendment Barcode _____
(if applicable)

Job Title VP GOVT. AFFAIRS

Address 516 N. ADAMS
Street

Phone 224-7173

TALLAHASSEE FL 32301
City State Zip

E-mail josce77@aif.com

Speaking: For Against Information

Representing AIF

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

2-23-12

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

Meeting Date

Topic T.P.P.

Bill Number 1064
(if applicable)

Name Bill Herrle

Amendment Barcode _____
(if applicable)

Job Title Exec. Director

Address 110 E Jeff St.

Phone 681 0416

Street
Tallahassee FL 32301
City *State* *Zip*

E-mail bill.herrle@nfib.org

Speaking: For Against Information

Representing National Federation of Independent Business

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)

2/23/2012
Meeting Date

Topic TPP - amendment

Bill Number 1064

Name Amber Hughes

Amendment Barcode 858197
(if applicable)

Job Title Legislative Advocate

Address PO Box 1757

Phone 701-3621

Tall. FL 32302
Street City State Zip

E-mail ahughes@flcities.com

Speaking: For Against Information

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/23/12
Meeting Date

Topic Tangible Personal Property Cons.

Bill Number SB 1064
(if applicable)

Name NANCY STEPHENS

Amendment Barcode _____
(if applicable)

Job Title EXEC DIR

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing MANUFACTURERS ASSOC. OF FL

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)

2-23
Meeting Date

Topic TPP Amendment

Bill Number 1064
(if applicable)

Name DAVIN SUGGS

Amendment Barcode 858192
(if applicable)

Job Title Sr. Leg. Advocate

Address _____
Street

Phone 850.320.2635

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing FL. ASSOC. 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)

2/23/12
Meeting Date

Topic property tax Bill Number STR 1064
Name Vicki Weber (Weber) Amendment Barcode 127370
Job Title attorney - Hoggins Gen? & Co (if applicable)
Address 119 South Monroe Phone 222-7500
Tallahassee Fla 32301 E-mail vweber@hgsllaw.com
City State Zip (if applicable)

Speaking: For Against Information

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)

2-23

Meeting Date

Topic TPP

Bill Number 1064

Name Christian Weiss

Amendment Barcode (if applicable)

Job Title Policy Coordinator

(if applicable)

Address 1702 Capitol

Phone 487.1880

Street TLH
City State Zip

E-mail _____

Speaking: For Against Information

Representing Gov's Office

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 Budget Subcommittee on Finance and Tax

BILL: SB 982

INTRODUCER: Senator Bogdanoff

SUBJECT: Tax on Sales, Use and Other Transactions

DATE: February 16, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	deMarsh-Mathues	ED	Favorable
2.	Cote	Diez-Arguelles	BFT	Pre-meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

SB 982 authorizes a 3-day sales tax holiday for specific clothing, footwear, and bags that cost \$75 or less, and school supplies that cost \$15 or less. The bill specifies that the exemption does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. The sales tax holiday is a one-time holiday, and is scheduled from August 10, 2012 through August 12, 2012.

The Department of Revenue is provided an appropriation of \$226,284 to implement these provisions, and is granted emergency rulemaking authority.

This bill will take effect upon become law.

This bill creates an undesignated section of the Florida Statutes.

II. Present Situation:

Chapter 212, F.S., imposes a 6 percent sales tax on the retail sale of tangible personal property, which includes books, clothing, footwear, wallets, bags, and school supplies.¹ In addition, county governments may impose discretionary sales surtaxes.²

¹ Section 212.08(5)(1), F.S.

² Section 212.054, F.S.

Sales Tax Holidays

The Legislature has approved sales tax holidays for a number of years, notably from 2004 through 2007, and then again in 2010 and 2011. The length of the exemption period has varied from 3 to 10 days. The type and value of exempt items has also varied. The holiday is made available for the benefit of families making back-to-school purchases, and is typically offered just prior to the start of a new school year.

III. Effect of Proposed Changes:

The bill creates a 3-day sales tax holiday from August 10, 2012, at 12:01am until August 12, 2012 at 11:59pm. During the sales tax holiday, the following items are exempt:

- Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags with a sales price of \$75 or less per item. Briefcases, suitcases, and other garment bags are excluded. Clothing is defined as “apparel intended to be worn on the human body”, including shoes, but excluding watches, watchbands, jewelry, umbrellas, handkerchiefs, skis, swim fins, rollerblades and skates;
- School supplies with a sales price of \$15 or less per item, including pens, pencils, erasers, crayons, notebooks and paper, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, tape, glue, rulers, computer disks, protractors, compasses and calculators.

Purchases made at theme parks, entertainment complexes, public lodging establishments, or airports do not qualify for the exemption.

This bill grants the Department of Revenue (DOR) authority to adopt rules through emergency rulemaking. An appropriation of \$226,284 is provided in nonrecurring General Revenue funds to the DOR to implement notice for the sales tax holiday. Any remaining funds shall revert and be reappropriated for the following year.

The bill will take 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.

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

The Revenue Estimating Conference estimates that the bill will have a nonrecurring negative impact of \$25.9 million to General Revenue for FY 2012-13 and a nonrecurring negative impact of \$5.9 million to local governments.

B. Private Sector Impact:

Private retailers who sell these types of items will likely experience increased sales during the sales tax holiday. Consumers will benefit from having the ability to purchase items tax-free during the term of the sales tax holiday.

C. Government Sector Impact:

According to the DOR, it will use the funds appropriated to notify dealers regarding which clothing items and school supplies will be exempt from sales tax. The DOR will use a Taxpayer Information Publication (TIP) to notify dealers. The DOR anticipates that it will need to print and mail TIPs to 556,000 sales and use tax dealers prior to the beginning of the sales tax holiday, with an additional print of 5,000 TIPs for mail to retail associations and others upon request.³

The total amount appropriated in this bill of \$226,284 will be expended by the DOR for printing (\$80,056) and postage (\$146,228).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

³ DOR Bill Analysis (December 13, 2011). On file with the Committee on Education Pre-K – 12.



825978

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2012	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Finance and Tax
(Margolis) recommended the following:

Senate Amendment

Delete line 15
and insert:
on August 3, 2012, through 11:59 p.m. on August 5, 2012, on

By Senator Bogdanoff

25-00654-12

2012982__

A bill to be entitled

An act relating to the tax on sales, use, and other transactions; specifying a period during this year when the sale of clothing, wallets, bags, and school supplies are exempt from the tax; providing definitions; providing exceptions; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation; providing an effective date.

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

Section 1. (1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 10, 2012, through 11:59 p.m. on August 12, 2012, on the sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of \$75 or less per item. As used in this paragraph, the term "clothing" means:

1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, or handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of \$15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook

25-00654-12

2012982__

filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

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

(3) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, for the purpose of implementing this section.

Section 2. For the 2011-2012 fiscal year, the sum of \$226,284 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for purposes of administering section 1. Funds remaining unexpended or unencumbered from this appropriation as of June 30, 2012, shall revert and be reappropriated for the same purpose in the 2012-2013 fiscal year.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic SALES TAX HOLIDAY

Bill Number 982
(if applicable)

Name JOSE GONZALEZ

Amendment Barcode _____
(if applicable)

Job Title VP GOVT. AFFAIRS

Address 516 N. ADAMS ST.
Street

Phone 224-7173

TALLAHASSEE, FL 32301
City State Zip

E-mail jgonzalez@aif.com

Speaking: For Against Information

Representing AIF

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)

2/23/12

Meeting Date

Topic TO SALES TAX HOLIDAY

Bill Number SB 982
(if applicable)

Name RANDY MILLER

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE V.P.

Address 227 S. ADAMS ST
Street

Phone 222-482

TALLAHASSEE, FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

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.

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 Budget Subcommittee on Finance and Tax

BILL: SB 294

INTRODUCER: Senator Bennett

SUBJECT: Enterprise Zone/Charlotte County

DATE: February 23, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tell	Hrdlicka	CM	Favorable
2.	Hinton	Yeatman	CA	Favorable
3.	Cote	Diez-Arguelles	BFT	Favorable
4.			BC	
5.				
6.				

I. Summary:

Florida has 62 enterprise zones, which are designed to encourage economic development and restoration in blighted or economically depressed communities. A combination of state and local business incentives is intended to encourage economic activity in these zones.

SB 294 creates an opportunity for Charlotte County to apply for and receive an enterprise zone designation. Charlotte County officials are considering locating the proposed enterprise zone in the unincorporated midsection of the county, in an area of up to 20 square miles in size.

Charlotte County is directed to file its enterprise zone application to the Department of Economic Opportunity (DEO) by December 31, 2012. The application must comply with the nominating procedure in s. 290.0055, F.S. DEO has the discretion to designate an enterprise zone for Charlotte County and establish the enterprise zone's effective date.

SB 294 creates s. 290.00729, F.S.

II. Present Situation:

Enterprise Zones in Florida

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 62 enterprise zones.¹

The Department of Economic Opportunity (DEO) reported that 7,559 new businesses moved into or were created in state enterprise zones between October 1, 2009, and September 30, 2010 – more than double the number the previous fiscal year.² However, fewer jobs were created – 6,784 last fiscal year, compared to 9,073 in the prior period.³ More than \$67 million in state and nearly \$20 million in local-government financial incentives were approved during FY 09-10, \$30 million more than in the prior period.⁴

Over the last 5 years (FY 05-06 through FY 09-10), some 21,682 new businesses have moved into or were created in enterprise zones and 49,403 new jobs have been created.⁵

Designation process

Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that an area:⁶

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
- Can be revitalized through the inducement of the private sector.

DEO is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located is also responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

¹ Ch. 2011-76, L.O.F., created the potential for three additional enterprise zones: in Martin County, in the City of Palm Bay, and in Lake County. DEO has since approved each community's application. These new enterprise zones became effective on January 1, 2012.

² Enterprise Florida, Inc., *Florida Enterprise Zone Program Annual Report, October 1, 2009 - September 30, 2010*, 1 (Mar. 1, 2011), available at <http://floridaenterprisezones.com/Zones/Org1/uploads/2011EZAnnualReport.pdf> (last visited Jan. 12, 2012).

³ Id.

⁴ Id.

⁵ Information compiled by committee staff from the Enterprise Florida's previous enterprise zone annual reports.

⁶ Section 290.0055, F.S.

As outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least eight, and no more than 13, members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation, and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying to the local government the financial needs of, and local resources or assistance available to, eligible businesses in the zone;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and
- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Pursuant to s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area;
- Describe how the community's social and human resources, transportation, housing, community development, public safety, and education and environmental concerns will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Available incentives

Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities.⁷ As noted above, DEO reported that \$67.6 million in state incentives were approved by the Department of Revenue (DOR), between October 1, 2009, and September 30, 2010, for all state enterprise zones. During that same time period, \$19.9 million in incentives were provided by local governing bodies, half of the FY 07-08 total. Examples of local incentives include: utility tax abatement, reduction of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.⁸

⁷ Section 290.007, F.S.

⁸ Enterprise Florida, Inc., *supra*, note 2 at 3.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain building materials, up to \$5,000 or 97 percent of the tax paid.⁹
- Business Equipment Used in Enterprise Zones: Provides a refund for sales taxes paid on the purchase of certain equipment, up to \$5,000 or 97 percent of the tax paid.¹⁰
- Rural Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.¹¹
- Urban Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.¹²
- Business Property Used in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain business property, up to \$5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an enterprise zone for at least 3 years.¹³
- Community Contribution Tax Credit: Provides 50 percent sales tax refund for donations made to local community development projects.¹⁴
- Electrical Energy Used in an Enterprise Zone: Provides 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy.¹⁵

Available state corporate income tax incentives for enterprise zones include:

- Rural Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.¹⁶
- Urban Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.¹⁷
- Enterprise Zone Property Tax Credit: Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.¹⁸
- Community Contribution Tax Credit: Provides a 50-percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.¹⁹

⁹ Section 9 of ch. 2010-147, L.O.F., removed the eligibility of condominium parcels or property, as defined in s. 718.103, F.S., for the sales tax exemption for building materials, pursuant to s. 212.08(5)(g), F.S.

¹⁰ Section 212.08(5)(h), F.S.

¹¹ Section 212.096, F.S.

¹² Id.

¹³ *Supra*, note 10.

¹⁴ Section 212.08(5)(p), F.S.

¹⁵ Section 212.08(15), F.S.

¹⁶ Section 220.181, F.S.

¹⁷ Id.

¹⁸ Section 220.182, F.S.

¹⁹ See ss. 220.183 and 624.5105, F.S.

5-Year Summary of State Incentives offered in the Enterprise Zone Program²⁰

CATEGORY	FY 09-10	FY 08-09	FY 07-08	FY 06-07	FY 05-06
Jobs Tax Credit (SUT)	\$5,683,252	\$5,227,245	\$5,732,605	\$6,087,843	\$6,777,250
Jobs Tax Credit (CIT)	\$4,348,031	\$5,072,555	\$5,507,311	\$5,919,236	\$4,253,621
Property Tax Credit (CIT)	\$1,384,668	\$1, 910,708	\$2,184,036	\$2,291,961	\$1,267,999
Building Materials (SUT Refund)	\$54,012,915	\$30,994,860	\$25,665,025	\$18,855,129	\$7,415,711
Business Equipment (SUT Refund)	\$1,035,562	\$1,139,066	\$1,269,955	\$1,771,396	\$2,940,864
Electrical Energy (SUT exempt)	\$1,138,054	\$1,007,007	\$606	\$793,179	\$778,090
Total Value of State Incentives	\$67,602,482	\$45,351,441	\$40,359,538	\$35,718,744	\$23,433,535
# of EZs	59	56	56	56	55

The total state incentives awarded over the last 5 years is \$212.5 million. Of that amount, nearly \$137 million, about 64 percent, has been in the form of refunds of sales and use tax on building materials used in enterprise zones.

Program evaluations

In the 29 years since enacted by the Legislature, the Florida Enterprise Zone Program has undergone numerous changes, many of them the result of two “sunset reviews” of the overall program, in 1994 and in 2005. A number of Senate and House interim project reports and program evaluations by the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Florida Auditor General have been written on the program.

The most recent program evaluation was prepared by OPPAGA last fall and published in January 2011.²¹ Among OPPAGA’s findings were:

- The most-used incentive, over the last 5 years, has been the sales and use tax refund on building materials because of claims from condominium developers.
- Applicants in 10 enterprise zones received 84 percent of the incentives, with applicants in Miami-Dade’s enterprise zone receiving 55 percent of the total amount.
- Based on OPPAGA’s review of the incentive applications over the last five years, there is a low participation rate among eligible businesses for the incentives. For example, only 402 businesses have taken advantage of the jobs tax credits, and they hired a total of 8,086 employees who lived within the zones.

²⁰ *Supra*, note 2 at 3.

²¹ Office of Program Policy Analysis and Gov’t Accountability, Florida Legislature, *Few Businesses Take Advantage of Enterprise Zone Benefits; the Legislature Could Consider Several Options to Modify the Program*, Report No. 11-01, (Jan. 1, 2011), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf> (last visited Jan. 12, 2012).

- DOR does not have consistent procedures for reviewing, validating, processing, and reporting the different tax credit and tax refund incentives. OPPAGA concluded that these inconsistencies may frustrate eligible businesses interested in applying for the incentives, prevents local zone coordinators and DEO from obtaining the most accurate information about program incentives taken, and makes it more difficult for OPPAGA and the Legislature to fully evaluate the incentives.

Charlotte County's enterprise zone proposal²²

Charlotte County officials are pursuing an enterprise zone designation for up to 20 square miles in the county's mid-section, specifically in the Parkside and Murdock Village areas. The 850-acre Parkside, which previously was designated as a community redevelopment district, is envisioned as a "medical arts village" anchored by two existing hospitals that will include medical-related businesses, retailers, residential development, and recreational green space. Murdock Village, comprising about 1,200 acres, includes about 870 acres purchased by the county. Murdock Village is envisioned as a multi-purpose area, including an "entertainment park," a youth baseball facility, and a research technology business park.

III. Effect of Proposed Changes:

Section 1 creates s. 290.00729, F.S., to allow Charlotte County to seek designation of an enterprise zone, of up to 20 square miles in area, within its boundary. Charlotte County has until December 31, 2012, to file its application with DEO. The application must meet the requirements of s. 290.0055, F.S., which establishes some of the criteria and details the process by which a local government seeks an enterprise zone designation.

The section also specifies that notwithstanding s. 290.0065, F.S., limiting the number of enterprise zones in Florida, DEO may designate one enterprise zone for Charlotte County. DEO is also directed to set the initial effective date for the new enterprise zone.

Section 2 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²² Information provided by Debrah Forester, redevelopment manager for the Charlotte County Economic Development Office, in a Jan. 10, 2012, telephone conversation, and from information on the office's website, <http://www.floridasinnovationcoast.com> (last visited Jan. 12, 2012).

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

The Revenue Estimating Conference met on November 3, 2011, and determined that the passage of SB 294 would result in:

- A recurring negative fiscal impact of \$200,000 to general revenue sales tax collections;
- A recurring insignificant negative fiscal impact to general revenue corporate income tax collections;
- A recurring insignificant negative fiscal impact to state trust funds; and
- A recurring insignificant negative fiscal impact to local governments.²³

B. Private Sector Impact:

Indeterminate. However, the positive economic impact could be significant to the businesses that locate or already are within the enterprise zone, because of their potential tax savings. Job-seekers also could benefit from employment opportunities afforded them by businesses within the new zone. Finally, consumers could benefit because of the greater diversity of businesses and entertainment options within the enterprise zone.

C. Government Sector Impact:

Indeterminate, but likely minimal. Other than the initial review of Charlotte County's application and decision whether to approve or reject it, the workload on DEO staff likely will be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

None.

²³ Office of Economic and Demographic Research, The Florida Legislature, *Revenue Estimating Conference for 2012 Regular Session – Enterprise Zone – Charlotte County, HB 201/SB 294* (Nov.3, 2011), available at <http://edr.state.fl.us/content/conferences/revenueimpact/archives/2012/pdf/page45-47.pdf> (last visited Jan. 12, 2012).

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 Bennett

21-00299-12

2012294__

1 A bill to be entitled

2 An act relating to enterprise zones; creating s.
3 290.00729, F.S.; authorizing Charlotte County to apply
4 to the Department of Economic Opportunity for
5 designation of an enterprise zone; providing
6 application requirements; authorizing the department
7 to designate an enterprise zone in Charlotte County;
8 requiring that the department establish the initial
9 effective date for the enterprise zone; providing an
10 effective date.
11

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

13
14 Section 1. Section 290.00729, Florida Statutes, is created
15 to read:

16 290.00729 Enterprise zone designation for Charlotte
17 County.—Charlotte County may apply to the Department of Economic
18 Opportunity for designation of one enterprise zone encompassing
19 an area not to exceed 20 square miles within Charlotte County.
20 The application must be submitted by December 31, 2012, and must
21 comply with the requirements in s. 290.0055. Notwithstanding s.
22 290.0065 limiting the total number of enterprise zones
23 designated and the number of enterprise zones within a
24 population category, the department may designate one enterprise
25 zone under this section. The department shall establish the
26 initial effective date of the enterprise zone designated under
27 this section.

28 Section 2. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Finance and Tax

BILL: CS/SJR 312

INTRODUCER: Judiciary Committee and Senator Simmons

SUBJECT: Rescinding and Withdrawing House Joint Resolution 381 (2011)

DATE: February 16, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Favorable
2.	Munroe	Maclure	JU	Fav/CS
3.	Fournier	Diez-Arguelles	BFT	Pre-Meeting
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The committee substitute for Senate Joint Resolution 312 (SJR 312) rescinds and withdraws House Joint Resolution 381 (2011) which proposes constitutional Amendment 4 on ad valorem taxation scheduled for the 2012 general election ballot. Amendment 4 reduces annual nonhomestead assessment limitations, allows the Legislature, by general law, to prohibit assessment value increases in any year when the market value of a property decreases, and authorizes an additional homestead exemption. The amendment also delays the future repeal of nonhomestead assessment limitations.

Senate Joint Resolution 312 is contingent upon adoption of Senate Joint Resolution 314 or similar legislation proposing alternative amendments to the Florida Constitution. If SJR 312 passes each house of Legislature by an affirmative three-fifths vote as required by s. 1, Article XI of the State Constitution, Amendment 4 will not appear on the 2012 ballot.

II. Present Situation:

House Joint Resolution 381: Proposed Amendment 4 (2012 General Election)

In 2011, the Legislature approved House Joint Resolution 381 (HJR 381) (2011), which relates to ad valorem taxation. House Joint Resolution 381 (2011) proposes amendments to Article VII, sections 4 and 6 and Article XII, section 27 of the Florida Constitution. It also proposes the creation of Article XII, sections 32 and 33 of the Florida Constitution. The ad valorem taxation provisions of HJR 381 (2011) comprise the following:

- Reducing the annual assessment limitation for specified nonhomestead property from 10 percent to 5 percent.
- Allowing the Legislature, by general law, to prohibit increases in the assessed value of a homestead property and certain nonhomestead property in any year where the market value of the property decreases.
- Providing an additional homestead exemption for persons who are entitled to a homestead exemption under Article VII, s. 6(a) of the Florida Constitution, and have not received a homestead exemption in the previous three years.
 - The additional homestead exemption would be equal to 50 percent of the just value of the homestead property, though the exemption may not exceed the median just value of all homestead property within the county.
 - The amount of the additional homestead exemption is reduced each year for five years by 20 percent of the initial exemption or by an amount equal to the difference between the just value and the assessed value, whichever is greater. The exemption is not available in the sixth and subsequent years after it is first received.
 - The exemption applies only to non-school property taxes.
- Delaying until 2023 the repeal, currently scheduled to take effect in 2019, of constitutional amendments that limit annual assessments for specified nonhomestead property.

If approved by voters at the 2012 general election, the assessment limitations and additional homestead exemption shall take effect January 1, 2013. The additional homestead exemption shall be available for properties purchased on or after January 1, 2012.

Rescinding a Proposed Amendment

A joint resolution is used by the Legislature to rescind a proposed amendment or revision of the State Constitution.¹ In Attorney General Opinion 070-21 (April 1970), the Florida Attorney General opined that the Legislature may rescind a proposed constitutional amendment and prevent it from appearing on the ballot by adopting a joint resolution at a subsequent session that is agreed to by the same percentage of the membership required to pass the original joint resolution.²

¹ The Florida Senate, *Manual for Drafting Legislation*, 130 (6th ed. 2009). See also *Crawford v. Gilchrist*, 59 So. 963, 968 (Fla. 1912) (“A right to reconsider action taken is an attribute of all deliberative bodies, and it is not forbidden to the Legislature by the Constitution.”).

² Attorney General Opinion 070-21 cites several examples of resolutions in 1962 and 1968 in which the Legislature exercised its authority to rescind a proposed constitutional amendment and prevent it from appearing on the ballot.

Article XI, section 1 of the Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house.

A recent example of a proposed constitutional amendment that was rescinded is SJR 2788 (2006), which removed a proposed constitutional amendment dealing with term limits from the 2006 general election ballot.

III. Effect of Proposed Changes:

The committee substitute for Senate Joint Resolution 312 (SJR 312) rescinds and withdraws House Joint Resolution 381 (2011), which proposes constitutional Amendment 4 on ad valorem taxation scheduled for the 2012 general election ballot. Amendment 4 reduces annual nonhomestead assessment limitations, allows the Legislature, by general law, to prohibit assessment value increases in any year when the market value of a property decreases, and authorizes an additional homestead exemption. The amendment also delays the future repeal of nonhomestead assessment limitations.

Senate Joint Resolution 312 takes effect only if SJR 314 or similar language is adopted by the Legislature. Senate Joint Resolution 314 proposes a constitutional amendment to revise requirements governing property assessments and ad valorem taxation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held.

The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year. The estimated cost for advertising Amendment 4 is \$376,903.14.³ While these costs will not be incurred if this joint resolution passes, similar costs will be required for SJR 314 or comparable legislation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by Judiciary on December 7, 2011:

The committee substitute states that “this joint resolution shall take effect only if Senate Joint Resolution 314 or similar legislation is adopted by the Legislature.”

B. Amendments:

None.

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

³ Department of State, *SJR 314 Analysis* (Oct. 31, 2011) (on file with the Senate Committee on Community Affairs).

By the Committee on Judiciary; and Senator Simmons

590-01564-12

2012312c1

Senate Joint Resolution

A joint resolution rescinding and withdrawing House Joint Resolution 381 (2011), which relates to ad valorem taxation, contingent upon adoption of a joint resolution proposing alternative amendments to the State Constitution.

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

That House Joint Resolution 381, adopted in the 2011 Regular Session and entitled "A joint resolution proposing amendments to Sections 4 and 6 of Article VII and Section 27 of Article XII and the creation of Sections 32 and 33 of Article XII of the State Constitution to allow the Legislature by general law to prohibit increases in the assessed value of homestead and specified nonhomestead property if the just value of the property decreases, reduce the limitation on annual assessment increases applicable to nonhomestead real property, provide an additional homestead exemption for owners of homestead property who have not owned homestead property for a specified time before purchase of the current homestead property, and application and limitations with respect thereto, delay the future repeal of provisions limiting annual assessment increases for specified nonhomestead real property, and provide effective dates," is rescinded and withdrawn.

BE IT FURTHER RESOLVED that the proposed amendments to Sections 4 and 6 of Article VII and Section 27 of Article XII and the creation of Sections 32 and 33 of Article XII of the State Constitution not be submitted to the electors of this

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

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state for approval or rejection at the 2012 presidential preference primary or the 2012 general election and the Secretary of State shall withhold House Joint Resolution 381 (2011) from the ballot.

BE IT FURTHER RESOLVED that this joint resolution shall take effect only if Senate Joint Resolution 314 or similar legislation is adopted by the Legislature.

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SJR 314

INTRODUCER: Judiciary Committee and Senator Simmons

SUBJECT: Ad Valorem Taxation

DATE: February 16, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Munroe</u>	<u>Maclure</u>	<u>JU</u>	Fav/CS
3.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>BFT</u>	Pre-Meeting
4.	_____	_____	<u>BC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This joint resolution proposes amendments to Article VII, section 4, of the Florida Constitution to permit the Legislature to prohibit increases in the assessed value of homestead and certain nonhomestead property if the just value of the property decreases. The joint resolution also reduces the limitation on annual assessment increases applicable to nonhomestead property from 10 percent to 7 percent. An amendment to Article VII, section 6, of the Florida Constitution is also proposed to create an additional homestead exemption. The Legislature is authorized to adjust the amount of the exemption.

This joint resolution delays the current automatic repeal of subsections (g) and (h) of section 4, Article VII, of the Florida Constitution,¹ relating to assessments of certain nonhomestead residential property by amending Article XII, section 27, of the Florida Constitution. Article XII

¹ The provisions relating to assessments of certain nonhomestead residential property were adopted in January 2008 and were originally designated as subsections (f) and (g) of section 4 of Article VII. Article XII, section 27, schedules these provisions for automatic repeal and currently refers to them as subsections (f) and (g). However, the provisions were redesignated in November 2008 as subsections (g) and (h). In addition to delaying the automatic repeal, this joint resolutions corrects the constitutional references in the repeal language to reflect subsections (g) and (h).

is further amended to create two new sections that provide that the amendments to Article VII, sections 4 and 6, of the Florida Constitution shall take effect on January 1, 2013.

This joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage. Should this joint resolution be adopted, an additional joint resolution will be required to rescind and withdraw HJR 381 (2011), which is to go before the voters as Amendment 4 on the November 2012 ballot.

This joint resolution creates two undesignated sections in Article XII, of the Florida Constitution.

This joint resolution proposes amendments to sections 4 and 6, Article VII, and section 27, Article XII, of the Florida Constitution.

II. Present Situation:

Property Valuation in Florida

Just Value

Article VII, section 4, of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.²

Assessed Value

The Florida Constitution authorizes certain exceptions to the just valuation standard for specific types of property.

- Agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes may be assessed solely on the basis of their character or use.³
- Livestock and tangible personal property that is held for sale as stock in trade may be assessed at a specified percentage of its value or totally exempt from taxation.⁴
- Counties and municipalities may authorize historic properties to be assessed solely on the basis of character and use.⁵
- Counties may also provide a reduction in the assessed value of property improvements on existing homesteads made to accommodate parents or grandparents who are 62 years of age or older.⁶
- The Legislature is authorized to prohibit the consideration of improvements to residential real property for purposes of improving the property's wind resistance or the installation of renewable energy source devices in the assessment of the property.⁷

² See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ Fla. Const. art. VII, s. 4(a).

⁴ Fla. Const. art. VII, s. 4(c).

⁵ Fla. Const. art. VII, s. 4(e).

⁶ Fla. Const. art. VII, s. 4(f).

⁷ Fla. Const. art. VII, s. 4(i).

- Certain working waterfront property is assessed based upon the property's current use.⁸

Taxable Value

The taxable value of real and tangible personal property is the assessed value minus any exemptions provided by the Florida Constitution or by the Florida Statutes. Such exemptions include, but are not limited to, homestead exemptions and exemptions for property used for educational, religious, or charitable purposes.⁹

Tax Exemptions and Assessment Limitations

Homestead Exemption

Article VII, section 6, of the Florida Constitution, as amended in January 2008, provides that every person with legal and equitable title to real estate and who maintains thereon the permanent residence of the owner is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school districts. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding ad valorem taxes levied by schools.

Other Specific Exemptions

Article VII, section 3, of the Florida Constitution, provides for other specific exemptions from property taxes.

- Property owned by a municipality and used exclusively for municipal or public purposes is exempt, and portions of property used predominantly for educational, literary, scientific, religious, or charitable purposes may be exempted by general law.¹⁰
- Additional exemptions are provided for household goods and personal effects, widows and widowers, blind persons, and persons who are totally and permanently disabled.¹¹
- A county or municipality is authorized to provide a property tax exemption for new and expanded businesses, but only against its own millage and upon voter approval.¹²
- A county or municipality may also grant an historic preservation property tax exemption against its own millage to owners of historic property.¹³
- Tangible personal property is exempt up to \$25,000 of its assessed value.¹⁴
- There is an exemption for real property dedicated in perpetuity for conservation purposes.¹⁵
- In November 2010, voters approved a constitutional amendment that adds an additional exemption for military personnel deployed on active duty outside of the United States in support of military operations designated by the Legislature.¹⁶

⁸ Fla. Const. art. VII, s. 4(j).

⁹ Fla. Const. art. VII, ss. 3 and 6.

¹⁰ Fla. Const. art. VII, s. 3(a).

¹¹ Fla. Const. art. VII, s. 3(b).

¹² Fla. Const. art. VII, s. 3(c).

¹³ Fla. Const. art. VII, s. 3(d).

¹⁴ Fla. Const. art. VII, s. 3(e).

¹⁵ Fla. Const. art. VII, s. 3(f).

¹⁶ Fla. Const. art. VII, s. 3(g).

Homestead Assessment Limitation: Save Our Homes

The *Save Our Homes* assessment limitation was amended into the Florida Constitution in 1992. Article VII, section 4(d), of the Florida Constitution, limits the amount that a homestead's assessed value can increase annually to the lesser of 3 percent or the percentage change in the Consumer Price Index (CPI).¹⁷ In addition, no assessment may exceed just value.

In 2008, Florida voters approved an additional amendment to Article VII, section 4(d), of the Florida Constitution, to provide for the portability of the accrued *Save Our Homes* benefit. This amendment allows homestead property owners who relocate to a new homestead to transfer up to \$500,000 of the *Save Our Homes* accrued benefit to the new homestead.

Nonhomestead Assessment Limitations

Article VII, subsections 4(g) and (h), of the Florida Constitution, were created in January 2008, when Florida electors voted to provide an assessment limitation for nonhomestead residential real property containing nine or fewer units, and for all real property not subject to other specified classes or uses. For all levies, with the exception of school levies, the assessed value of property in each of these two categories may not be increased annually by more than 10 percent of the assessment in the prior year. However, nonhomestead residential real property containing nine or fewer units must be assessed at just value whenever there is a change in ownership or control. For the other real property subject to the limitation, the Legislature may provide that such property shall be assessed at just value after a change of ownership or control.¹⁸

Article XII, section 27, of the Florida Constitution, provides that subsections (f) and (g),¹⁹ Article VII (creating limitations on annual assessment increases of specified nonhomestead property) are repealed effective January 1, 2019, and that the Legislature must propose an amendment abrogating the repeal, which shall be submitted to the voters for approval or rejection on the general election ballot for 2018.

Rule 12D-8.0062, Florida Administrative Code (F.A.C.): Recapture Rule

In October 1995, the Governor and the Cabinet adopted rule 12D-8.0062, F.A.C., of the Department of Revenue, entitled *Assessments; Homestead; and Limitations*.²⁰ The administrative intent of this rule is to govern “the determination of the assessed value of property subject to the homestead assessment limitation under Article VII, Section 4(c),²¹ Florida Constitution and Section 193.155, F.S.”²²

¹⁷ Fla. Const. art. VII, s. 4(d).

¹⁸ Fla. Const. art. VII, s. 4(g) and (h).

¹⁹ See note 1, *supra*.

²⁰ While s. 193.155, F.S., did not provide specific rulemaking authority, the Department of Revenue adopted Rule 12D-8.0062, F.A.C., pursuant to its general rulemaking authority under s. 195.027, F.S. Section 195.027, F.S., provides that the Department of Revenue shall prescribe reasonable rules and regulations for the assessing and collecting of taxes, and that the Legislature intends that the department shall formulate such rules and regulations that property will be assessed, taxes will be collected, and that the administration will be uniform, just, and otherwise in compliance with the requirements of general law and the constitution.

²¹ This provision is the *Save Our Homes* assessment limitation that was amended into the Florida Constitution in 1992 and is currently designated as Article VII, section 4(d) of the Florida Constitution.

²² Rule 12D-8.0062(1), F.A.C.

Subsection (5) of Rule 12D-8.0062, F.A.C., is popularly known as the *Recapture Rule*. This provision requires property appraisers to increase the prior year assessed value of a homestead property by the lower of 3 percent or the percent increase in the CPI on all property **where the assessed value is lower than the just value**.

Under current law, this requirement applies even if the just value of the homestead property has decreased from the prior year. Therefore, homestead owners entitled to the *Save Our Homes* cap whose property is assessed at less than just value may see an increase in the assessed value of their home during years when the just market value of their property decreased.²³

Subsection (6) provides that if the change in the CPI is negative, then the assessed value shall be equal to the prior year's assessed value decreased by that percentage.

Markham v. Department of Revenue²⁴

On March 17, 1995, William Markham, the Broward County Property Appraiser, filed a petition challenging the validity of the Department of Revenue's proposed "recapture rule" within Rule 12D-8.0062, F.A.C. Markham alleged that the proposed rule was "an invalid exercise of delegated legislative authority and is arbitrary and capricious."²⁵ Markham also claimed that subsection (5) of the rule was at variance with the constitution – specifically that it conflicted with the intent of the ballot initiative and that a third limitation relating to market value or movement²⁶ should be incorporated into the language of the rule to make it compatible with the language in Article VII, section 4(c), of the Florida Constitution.

A final order was issued by the Division of Administrative Hearings on June 21, 1995, which upheld the validity of Rule 12D-8.0062, F.A.C., and the Department of Revenue's exercise of delegated legislative authority. The hearing officer determined that subsections (5) and (6) of the administrative rule were consistent with Article VII, section 4(c), of the Florida Constitution. The hearing officer also held that the challenged portions of the rule were consistent with the agency's mandate to adopt rules under s. 195.027(1), F.S., since the rule had a factual and logical underpinning, was plain and unambiguous, and did not conflict with the implemented law.²⁷

In response to the petitioner's assertion of a third limitation on market movement, the hearing officer concluded that the rule was not constitutionally infirm since there was no mention of "market movement" or "market value" in the ballot summary of the amendment nor did the petitioner present any evidence of legislative history concerning the third limitation.²⁸

²³ *Markham v. Dep't of Revenue*, Case No. 95-1339RP, 1995 WL 1053056 (Fla. DOAH 1995) (stating that "[s]ubsection (5) requires an increase to the prior year's assessed value in a year where the CPI is greater than zero").

²⁴ *Id.*

²⁵ *Id.* at *1.

²⁶ *Id.* at *6 (stating that "[t]his limitation, grounded on 'market movement,' would mean that in a year in which market value did not increase, the assessed value of a homestead property would not increase").

²⁷ *Id.* at *6.

²⁸ *Id.* at *6 -*7.

Amendment 3 Proposed for the November 2010 Ballot: SJR 532 (2009)

In 2009, the Legislature passed SJR 532, which was to go before the voters as Amendment 3 on the November 2010 ballot. Among the provisions of Amendment 3:

- Reduce the annual nonhomestead assessment limitation from 10 percent to 5 percent.
- Provide an additional homestead exemption for persons who have not owned a principal residence in the previous eight years.²⁹
 - The additional homestead exemption would have been equal to 25 percent of the just *value* of the homestead in the first year for all levies, up to \$100,000.
 - The amount of the additional homestead exemption was to decrease by 20 percent of the initial exemption during each of the succeeding five years, until it was no longer available in the sixth and subsequent years.³⁰

In August 2010, the Florida Supreme Court removed Amendment 3 from the 2010 Ballot, on the grounds that the ballot title and summary were misleading and failed to comply with the constitutional accuracy requirement implicitly provided in Article XI, section 5(a), of the Florida Constitution.³¹

Amendment 4 Proposed for the November 2012 Ballot: HJR 381 (2011)

In 2011, the Legislature approved HJR 381, which is to go before the voters as Amendment 4 on the November 2012 ballot. HJR 381 (2011) proposes amendments to Article VII, sections 4 and 6 and Article XII, section 27 of the Florida Constitution. It also proposes the creation of Article XII, sections 32 and 33 of the Florida Constitution. The ad valorem taxation provisions of HJR 381 (2011) comprise the following:

- Reducing the annual assessment limitation for specified nonhomestead property from 10 percent to 5 percent.
- Allowing the Legislature, by general law, to prohibit increases in the assessed value of a homestead property and certain nonhomestead property in any year where the market value of the property decreases.
- Providing an additional homestead exemption for persons who are entitled to a homestead exemption under Article VII, section 6(a) of the Florida Constitution, and have not received a homestead exemption in the previous three years.
 - The additional homestead exemption would be equal to 50 percent of the just value of the homestead property though the exemption may not exceed the median just value of all homestead property within the county.
 - The amount of the additional homestead exemption is reduced each year for five years by 20 percent of the initial exemption or by an amount equal to the difference between the just value and the assessed value, whichever is greater. The exemption is not available in the sixth and subsequent years after it is first received.
 - The exemption applies only to non-school property taxes.

²⁹ This was popularly referred to as a first-time homebuyer exemption.

³⁰ CS for SJR 532, 1st Eng. (2009 Reg. Session).

³¹ *Roberts v. Doyle*, 43 So. 3d 654 (Fla. 2010).

- Delaying the currently scheduled repeal of constitutional amendments that limit annual assessments for specified nonhomestead property from 2019 to 2023.

If approved by voters at the 2012 general election, the assessment limitations and additional homestead exemption shall take effect January 1, 2013. The additional homestead exemption shall be available for properties purchased on or after January 1, 2012.

III. Effect of Proposed Changes:

Assessment Limitation on Homestead and certain Nonhomestead Property: Recapture

The joint resolution proposes to amend paragraph (1) of subsections (d), (g), and (h) in section 4, Article VII, of the Florida Constitution, to authorize the Legislature to provide by general law that an assessment may not increase if the just value of the property is less than the just value of the property on the preceding January 1. This authority to limit increases in the assessed value of homestead and certain nonhomestead property does not apply to the assessment of changes, additions, reductions, or improvements to homestead property as provided by subsection (d)(5) in section 4, Article VII, of the Florida Constitution.

The joint resolution also deletes obsolete language provided in paragraph (8) of subsection (d) in section 4, Article VII, of the Florida Constitution.

Assessment Limitation on Specified Nonhomestead Property

The joint resolution proposes to amend paragraph (1) of subsections (g) and (h) in section 4, Article VII, to reduce the limitation on annual assessment increases applicable to nonhomestead property from 10 percent to 7 percent.

Additional Homestead Exemption

The joint resolution proposes to create subsection (f) in section 6, Article VII, of the Florida Constitution. This amendment allows individuals who establish a right to receive a homestead exemption under Article VII, section 6(a), of the Florida Constitution, to receive an additional homestead exemption for all non-school property taxes. This exemption is equal to 30 percent of the homestead property's just value in excess of \$75,000 but less than or equal to \$200,000, plus 15 percent of the homestead property's just value in excess of \$200,000 but less than or equal to \$400,000. The value of the additional homestead exemption shall be reduced by the difference between the just value of the property and the assessed value of the property determined under subsection (d) in section 4, Article VII of the Florida Constitution.

By general law, the Legislature may adjust the percent of just value or the maximum and minimum levels of just value used to calculate the additional homestead exemption, but may not reduce the value of the additional exemption below the value established in this subsection. The exemption does not apply to school levies. This provision would allow the Legislature to totally exempt homestead property from non-school property taxes.

Scheduled Repeal of Assessment Limitation on Specified Nonhomestead Property

The joint resolution amends Article XII, section 27 of the Florida Constitution, to delay until January 1, 2023, the repeal, currently scheduled to take effect January 1, 2019, of subsections (g) and (h) of section 4, of Article VII of the Florida Constitution. These subsections limit annual increases for specified nonhomestead real property. The joint resolution delays until 2022 the submission of an amendment proposing the abrogation of such repeal to the voters.

Article XII, section 27, of the Florida Constitution, is further amended to establish a schedule for authorizing the proposed property assessment and additional homestead exemption amendments of the joint resolution. Under the joint resolution, the amendments to Article VII, sections 4 and 6, of the Florida Constitution shall take effect January 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18, of the Florida Constitution, do not apply to joint resolutions.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Constitutional Amendments

Article XI, section 1, of the Florida Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State or at a special election held for that purpose.

Article XI, section 5(d), of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the average cost per word to advertise an amendment to the State Constitution is \$106.14 for this fiscal year.

Article XI, section 5(e), of the Florida Constitution, requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes

effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

Article XI, section 5(a), of the Florida Constitution, and s. 101.161(1), F.S., require constitutional amendments submitted to the electors to be printed in clear and unambiguous language on the ballot. In determining whether a ballot title and summary are in compliance with the accuracy requirement, Florida courts utilize a two-prong test, asking “first, whether the ballot title and summary ‘fairly inform the voter of the chief purpose of the amendment,’ and second, ‘whether the language of the title and summary, as written, misleads the public.’”³²

Equal Protection Clause

The United States Constitution provides that “no State shall . . . deny to any person within its jurisdiction, the equal protection of law.”³³ In the past, taxpayers have argued that disparate treatment in real property tax assessments constitutes an equal protection violation.³⁴ In these instances, courts have used the rational basis test to determine the constitutionality of discriminatory treatment in property tax assessments.³⁵ Under the rational basis test, a court must uphold a state statute so long as the classification bears a rational relationship to a legitimate state interest.³⁶

It has been argued that the recapture rule provided in section (5) of Rule 12D-8.0062, F.A.C., diminishes the existing inequity between property assessments over time.³⁷ To the extent that this view is adopted, taxpayers may argue that the elimination of the recapture rule creates a stronger argument for an Equal Protection Clause violation. If this argument is made, the court would need to determine whether the components of this joint resolution are rationally related to a legitimate state interest.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If approved by the voters, this joint resolution lowers the limit on increases in the assessed value of specified nonhomestead property from 10 percent to 7 percent, and

³² *Roberts*, 43 So. 3d at 659 (quoting *Florida Dep’t of State v. Slough*, 992 So. 2d 142, 147 (Fla. 2008)).

³³ U.S. CONST. amend. XIV, § 1. See also FLA. CONST. art. I, s. 2.

³⁴ *Reinish v. Clark*, 765 So. 2d 197 (Fla. 1st DCA 2000) (holding that the Florida homestead exemption did not violate the Equal Protection Clause, the Privileges and Immunities Clause, or the Commerce Clause). See also *Lanning v. Pilcher*, 16 So. 3d 294 (Fla. 1st DCA 2009) (holding that the Save Our Homes Amendment of the State Constitution did not violate a nonresident’s rights under the Equal Protection Clause). See also *Nordlinger v. Hahn*, 505 U.S. 1 (1992) (stating that the constitutional amendment in California that limited real property tax increases, in the absence of a change of ownership to 2 percent per year, was not a violation of the Equal Protection Clause).

³⁵ *Nordlinger*, 505 U.S. at 33-34 (stating that a “classification *rationality* furthers a state interest when there is some fit between the disparate treatment and the legislative purpose”).

³⁶ *Id.*

³⁷ Walter Hellerstein et al., LEGAL ANALYSIS OF PROPOSED ALTERNATIVES TO FLORIDA’S HOMESTEAD PROPERTY TAX LIMITATIONS: FEDERAL CONSTITUTIONAL AND RELATED ISSUES, at 83 (on file with the Senate Committee on Community Affairs).

provides an additional homestead exemption. It also gives authority to the Legislature to limit assessment increases for property whose just value has decreased in the preceding year.

B. Private Sector Impact:

Assessment Limitation on Homestead Property: Recapture

If approved by the voters and implemented by the Legislature, assessments will be lower for those taxpayers whose homesteads or specified nonhomestead properties are falling in value but still receive a benefit from Save Our Homes. The joint resolution will redistribute the tax burden. Nonhomestead and recently established homestead property will pay a larger proportion of the cost of local services. To the extent that local governments do not raise millage rates, taxpayers may experience a reduction in government and education services due to any reductions in ad valorem tax revenues.

Assessment Limitation on Nonhomestead Property

Under the current-law 10 percent limitation on assessment increases, owners of existing residential rental and commercial real property may experience property tax savings compared to new property. To the extent that local taxing authorities' budgets are not reduced and millage rates rise to offset losses in taxable value, the tax burden on other properties is higher to offset these tax losses. New properties or properties that have changed ownership or undergone significant improvements are assessed at just value, and are at a competitive disadvantage compared to older properties with respect to their tax burden. By reducing the assessment limitation from 10 percent to 7 percent, this proposed joint resolution exacerbates the redistribution of the tax burden from existing property to new property.

Additional Homestead Exemption

If approved by the voters, homestead owners whose just values are greater than \$75,000 may experience reductions in ad valorem taxes. Other property owners in the taxing jurisdiction will pay higher taxes if the jurisdiction adjusts the millage rate to offset the loss to the tax base. The Legislature is authorized by this amendment to increase the value of this additional homestead exemption, and potentially could totally exempt homestead property from non-school property taxes

C. Government Sector Impact:

The Revenue Estimating Conference (REC) has estimated the impacts of both SJR 314 and HJR 381 (2011). The figures in the tables below represent the loss in local government taxes that would occur if the voters approve either of the amendments, at the millage rates levied in 2011. The statewide average millage rate for non-school taxes used is 10.9 mills; the statewide average school millage rate is 7.8 mills.

SJR 314	FY 2013-2014	FY 2014-2015	FY 2015-2016
10% - 7% Limitation	-\$44.5	-\$82.5	-\$118.0
Homestead Exemption	-\$565.1	-\$576.0	-\$579.6
Homestead Recapture Limitation: Schools	-\$38.5	-\$63.0	-\$79.0
Homestead Recapture Limitation: Non-schools	-\$53.2	-\$87.1	-\$109.3
Nonhomestead Recapture Limitation	-\$14.8	-\$47.8	-\$55.7

HJR 381 (2011)	FY 2013-2014	FY 2014-2015	FY 2015-2016
10% - 5% Limitation	-\$82.3	-\$162.2	-\$243.0
Homestead Exemption	-\$36.0	-\$55.3	-\$77.7
Homestead Recapture Limitation: Schools	-\$38.5	-\$63.0	-\$79.0
Homestead Recapture Limitation: Non-schools	-\$53.2	-\$87.1	-\$109.3
Nonhomestead Recapture Limitation	-\$14.2	-\$33.5	-\$41.2

(All amounts are \$ millions.)

Technical Deficiencies:

None.

VI. Related Issues:

Senate Joint Resolution 312 rescinds and withdraws House Joint Resolution 381 (2011), which proposes constitutional Amendment 4 on ad valorem taxation scheduled for the 2012 general election ballot. The effective date of SJR 312 is contingent on the passage of SJR 314.

VII. Additional Information:

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

CS by Judiciary on December 7, 2011:

The committee substitute revises the effective date for amendments to Article VII, sections 4 and 6, of the Florida Constitution and to Article XII, section 27, of the Florida Constitution within the joint resolution to provide that the amendments shall take effect on January 1, 2013.

- 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 Judiciary; and Senator Simmons

590-01563-12

2012314c1

Senate Joint Resolution

A joint resolution proposing amendments to Sections 4 and 6 of Article VII and Section 27 of Article XII and the creation of two new Sections in Article XII of the State Constitution to allow the Legislature by general law to prohibit increases in the assessed value of homestead and specified nonhomestead property if the just value of the property decreases, reduce the limitation on annual assessment increases applicable to nonhomestead real property, provide an additional homestead exemption for owners of homestead property, authorize the Legislature to adjust the amount of the exemption, provide that the additional exemption is to be reduced by the difference between the just value and the assessed value, delay a future repeal of provisions limiting annual assessment increases for specified nonhomestead real property, and provide effective dates.

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

That the following amendments to Sections 4 and 6 of Article VII and Section 27 of Article XII and the creation of two new Sections in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

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

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FINANCE AND TAXATION

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general law and assessed solely on the basis of character or use.

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(d) All persons entitled to a homestead exemption under Section 6 ~~of this Article~~ shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall change ~~be changed~~ annually on January 1 ~~1st~~ of each year, ~~but those changes in assessments~~

a. A change in an assessment may ~~shall~~ not exceed the lower of the following:

1.a. ~~Three percent (3%)~~ of the assessment for the prior year.

2.b. The percent change in the Consumer Price Index for all

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59 urban consumers, U.S. City Average, all items 1967=100, or a
 60 successor ~~index reports~~ for the preceding calendar year as
 61 initially reported by the United States Department of Labor,
 62 Bureau of Labor Statistics.

63 b. The legislature may provide by general law that, except
 64 for changes, additions, reductions, or improvements to homestead
 65 property assessed as provided in paragraph (5), an assessment
 66 may not increase if the just value of the property is less than
 67 the just value of the property on the preceding January 1.

68 (2) ~~An~~ ~~no~~ assessment may not ~~shall~~ exceed just value.

69 (3) After a ~~any~~ change of ownership, as provided by general
 70 law, homestead property shall be assessed at just value as of
 71 January 1 of the following year, unless the provisions of
 72 paragraph (8) apply. Thereafter, the homestead shall be assessed
 73 as provided in this subsection.

74 (4) New homestead property shall be assessed at just value
 75 as of January 1 ~~1st~~ of the year following the establishment of
 76 the homestead, unless the provisions of paragraph (8) apply.
 77 That assessment shall ~~only~~ change only as provided in this
 78 subsection.

79 (5) Changes, additions, reductions, or improvements to
 80 homestead property shall be assessed as provided for by general
 81 law, ~~provided~~. However, after the adjustment for any change,
 82 addition, reduction, or improvement, the property shall be
 83 assessed as provided in this subsection.

84 (6) In the event of a termination of homestead status, the
 85 property shall be assessed as provided by general law.

86 (7) The provisions of this subsection amendment are
 87 severable. If a provision ~~any of the provisions~~ of this

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88 subsection is amendment shall be held unconstitutional by a ~~any~~
 89 court of competent jurisdiction, the decision of the ~~such~~ court
 90 ~~does shall~~ not affect or impair any remaining provisions of this
 91 subsection amendment.

92 (8)a. A person who ~~establishes a new homestead as of~~
 93 ~~January 1, 2009, or January 1 of any subsequent year and who~~ has
 94 received a homestead exemption pursuant to Section 6 ~~of this~~
 95 ~~Article~~ as of January 1 of either of the 2 ~~two~~ years immediately
 96 preceding the establishment of a ~~the~~ new homestead is entitled
 97 to have the new homestead assessed at less than just value. ~~If~~
 98 ~~this revision is approved in January of 2008, a person who~~
 99 ~~establishes a new homestead as of January 1, 2008, is entitled~~
 100 ~~to have the new homestead assessed at less than just value only~~
 101 ~~if that person received a homestead exemption on January 1,~~
 102 ~~2007.~~ The assessed value of the newly established homestead
 103 shall be determined as follows:

104 1. If the just value of the new homestead is greater than
 105 or equal to the just value of the prior homestead as of January
 106 1 of the year in which the prior homestead was abandoned, the
 107 assessed value of the new homestead shall be the just value of
 108 the new homestead minus an amount equal to the lesser of
 109 \$500,000 or the difference between the just value and the
 110 assessed value of the prior homestead as of January 1 of the
 111 year in which the prior homestead was abandoned. Thereafter, the
 112 homestead shall be assessed as provided in this subsection.

113 2. If the just value of the new homestead is less than the
 114 just value of the prior homestead as of January 1 of the year in
 115 which the prior homestead was abandoned, the assessed value of
 116 the new homestead shall be equal to the just value of the new

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117 homestead divided by the just value of the prior homestead and
 118 multiplied by the assessed value of the prior homestead.
 119 However, if the difference between the just value of the new
 120 homestead and the assessed value of the new homestead calculated
 121 pursuant to this sub-subparagraph is greater than \$500,000, the
 122 assessed value of the new homestead shall be increased so that
 123 the difference between the just value and the assessed value
 124 equals \$500,000. Thereafter, the homestead shall be assessed as
 125 provided in this subsection.

126 b. By general law and subject to conditions specified
 127 therein, the legislature shall provide for application of this
 128 paragraph to property owned by more than one person.

129 (e) The legislature may, by general law, for assessment
 130 purposes and subject to the provisions of this subsection, allow
 131 counties and municipalities to authorize by ordinance that
 132 historic property may be assessed solely on the basis of
 133 character or use. Such character or use assessment shall apply
 134 only to the jurisdiction adopting the ordinance. The
 135 requirements for eligible properties must be specified by
 136 general law.

137 (f) A county may, in the manner prescribed by general law,
 138 provide for a reduction in the assessed value of homestead
 139 property to the extent of any increase in the assessed value of
 140 that property which results from the construction or
 141 reconstruction of the property for the purpose of providing
 142 living quarters for one or more natural or adoptive grandparents
 143 or parents of the owner of the property or of the owner's spouse
 144 if at least one of the grandparents or parents for whom the
 145 living quarters are provided is 62 years of age or older. Such a

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146 reduction may not exceed the lesser of the following:

147 (1) The increase in assessed value resulting from
 148 construction or reconstruction of the property.

149 (2) Twenty percent of the total assessed value of the
 150 property as improved.

151 (g) For all levies other than school district levies,
 152 assessments of residential real property, as defined by general
 153 law, which contains nine units or fewer and which is not subject
 154 to the assessment limitations set forth in subsections (a)
 155 through (d) shall change only as provided in this subsection.

156 (1) Assessments subject to this subsection shall be changed
 157 annually on the date of assessment provided by law. However,
 158 ~~but~~ those changes in assessments may ~~shall~~ not exceed 7 ~~ten~~
 159 percent ~~(10%)~~ of the assessment for the prior year. The
 160 legislature may provide by general law that, except for changes,
 161 additions, reductions, or improvements to property assessed as
 162 provided in paragraph (4), an assessment may not increase if the
 163 just value of the property is less than the just value of the
 164 property on the preceding date of assessment provided by law.

165 (2) ~~An~~ ~~no~~ assessment may not ~~shall~~ exceed just value.

166 (3) After a change of ownership or control, as defined by
 167 general law, including any change of ownership of a legal entity
 168 that owns the property, such property shall be assessed at just
 169 value as of the next assessment date. Thereafter, such property
 170 shall be assessed as provided in this subsection.

171 (4) Changes, additions, reductions, or improvements to such
 172 property shall be assessed as provided for by general law. ~~+~~
 173 However, after the adjustment for any change, addition,
 174 reduction, or improvement, the property shall be assessed as

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175 provided in this subsection.

176 (h) For all levies other than school district levies,
177 assessments of real property that is not subject to the
178 assessment limitations set forth in subsections (a) through (d)
179 and (g) shall change only as provided in this subsection.

180 (1) Assessments subject to this subsection shall be changed
181 annually on the date of assessment provided by law. However,
182 ~~but~~ those changes in assessments may ~~shall~~ not exceed 7 ~~ten~~
183 percent ~~(10%)~~ of the assessment for the prior year. The
184 legislature may provide by general law that, except for changes,
185 additions, reductions, or improvements to property assessed as
186 provided in paragraph (5), an assessment may not increase if the
187 just value of the property is less than the just value of the
188 property on the preceding date of assessment provided by law.

189 (2) ~~An~~ An assessment may not ~~shall~~ exceed just value.

190 (3) The legislature must provide that such property shall
191 be assessed at just value as of the next assessment date after a
192 qualifying improvement, as defined by general law, is made to
193 such property. Thereafter, such property shall be assessed as
194 provided in this subsection.

195 (4) The legislature may provide that such property shall be
196 assessed at just value as of the next assessment date after a
197 change of ownership or control, as defined by general law,
198 including any change of ownership of the legal entity that owns
199 the property. Thereafter, such property shall be assessed as
200 provided in this subsection.

201 (5) Changes, additions, reductions, or improvements to such
202 property shall be assessed as provided for by general law.
203 However, after the adjustment for any change, addition,

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204 reduction, or improvement, the property shall be assessed as
205 provided in this subsection.

206 (i) The legislature, by general law and subject to
207 conditions specified therein, may prohibit the consideration of
208 the following in the determination of the assessed value of real
209 property used for residential purposes:

210 (1) Any change or improvement made for the purpose of
211 improving the property's resistance to wind damage.

212 (2) The installation of a renewable energy source device.

213 (j) (1) The assessment of the following working waterfront
214 properties shall be based upon the current use of the property:

215 a. Land used predominantly for commercial fishing purposes.

216 b. Land that is accessible to the public and used for
217 vessel launches into waters that are navigable.

218 c. Marinas and drystackes that are open to the public.

219 d. Water-dependent marine manufacturing facilities,
220 commercial fishing facilities, and marine vessel construction
221 and repair facilities and their support activities.

222 (2) The assessment benefit provided by this subsection is
223 subject to conditions and limitations and reasonable definitions
224 as specified by the legislature by general law.

225 SECTION 6. Homestead exemptions.-

226 (a) Every person who has the legal or equitable title to
227 real estate and maintains thereon the permanent residence of the
228 owner, or another legally or naturally dependent upon the owner,
229 shall be exempt from taxation thereon, except assessments for
230 special benefits, up to the assessed valuation of \$25,000
231 ~~twenty-five thousand dollars~~ and, for all levies other than
232 school district levies, on the assessed valuation greater than

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233 ~~\$50,000 fifty thousand dollars~~ and up to \$75,000 ~~seventy-five~~
 234 ~~thousand dollars~~, upon establishment of right thereto in the
 235 manner prescribed by law. The real estate may be held by legal
 236 or equitable title, by the entireties, jointly, in common, as a
 237 condominium, or indirectly by stock ownership or membership
 238 representing the owner's or member's proprietary interest in a
 239 corporation owning a fee or a leasehold initially in excess of
 240 98 ~~ninety-eight~~ years. The exemption shall not apply with
 241 respect to any assessment roll until such roll is first
 242 determined to be in compliance with the provisions of Section 4
 243 by a state agency designated by general law. This exemption is
 244 repealed on the effective date of any amendment to this Article
 245 which provides for the assessment of homestead property at less
 246 than just value.

247 (b) Not more than one exemption under subsection (a) and
 248 one exemption under subsection (f) shall be allowed any
 249 individual or family unit or with respect to any residential
 250 unit. No exemption shall exceed the value of the real estate
 251 assessable to the owner or, in case of ownership through stock
 252 or membership in a corporation, the value of the proportion
 253 which the interest in the corporation bears to the assessed
 254 value of the property.

255 (c) By general law and subject to conditions specified
 256 therein, the legislature may provide to renters, who are
 257 permanent residents, ad valorem tax relief on all ad valorem tax
 258 levies. Such ad valorem tax relief shall be in the form and
 259 amount established by general law.

260 (d) The legislature may, by general law, allow counties or
 261 municipalities, for the purpose of their respective tax levies

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262 and subject to the provisions of general law, to grant an
 263 additional homestead tax exemption not exceeding \$50,000 ~~fifty~~
 264 ~~thousand dollars~~ to any person who has the legal or equitable
 265 title to real estate and maintains thereon the permanent
 266 residence of the owner and who has attained age 65 ~~sixty-five~~
 267 and whose household income, as defined by general law, does not
 268 exceed \$20,000 ~~twenty thousand dollars~~. The general law must
 269 allow counties and municipalities to grant this additional
 270 exemption, within the limits prescribed in this subsection, by
 271 ordinance adopted in the manner prescribed by general law, and
 272 must provide for the periodic adjustment of the income
 273 limitation prescribed in this subsection for changes in the cost
 274 of living.

275 (e) Each veteran who is age 65 or older who is partially or
 276 totally permanently disabled shall receive a discount from the
 277 amount of the ad valorem tax otherwise owed on homestead
 278 property the veteran owns and resides in if the disability was
 279 combat related, the veteran was a resident of this state at the
 280 time of entering the military service of the United States, and
 281 the veteran was honorably discharged upon separation from
 282 military service. The discount shall be in a percentage equal to
 283 the percentage of the veteran's permanent, service-connected
 284 disability as determined by the United States Department of
 285 Veterans Affairs. To qualify for the discount granted by this
 286 subsection, an applicant must submit to the county property
 287 appraiser, by March 1, proof of residency at the time of
 288 entering military service, an official letter from the United
 289 States Department of Veterans Affairs stating the percentage of
 290 the veteran's service-connected disability and such evidence

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291 that reasonably identifies the disability as combat related, and
 292 a copy of the veteran's honorable discharge. If the property
 293 appraiser denies the request for a discount, the appraiser must
 294 notify the applicant in writing of the reasons for the denial,
 295 and the veteran may reapply. The legislature may, by general
 296 law, waive the annual application requirement in subsequent
 297 years. This subsection shall take effect December 7, 2006, is
 298 self-executing, and does not require implementing legislation.

299 (f) Every person who has established the right to receive
 300 the homestead exemption provided in subsection (a) is entitled
 301 to an additional homestead exemption for all levies other than
 302 school district levies in an amount equal to 30 percent of the
 303 homestead property's just value in excess of \$75,000 but less
 304 than or equal to \$200,000, plus 15 percent of the homestead
 305 property's just value in excess of \$200,000 but less than or
 306 equal to \$400,000. The value of the additional homestead
 307 exemption shall be reduced by the difference between the just
 308 value of the property and the assessed value of the property
 309 determined under Section 4(d). By general law, the legislature
 310 may adjust the percent of just value or the maximum and minimum
 311 levels of just value used to calculate the additional homestead
 312 exemption, but may not reduce the value of the additional
 313 exemption below the value established in this subsection.

ARTICLE XII

SCHEDULE

314
 315
 316 SECTION 27. Property tax exemptions and limitations on
 317 property tax assessments.—The amendments to Sections 3, 4, and 6
 318 of Article VII, providing a \$25,000 exemption for tangible
 319 personal property, providing an additional \$25,000 homestead

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320 exemption, authorizing transfer of the accrued benefit from the
 321 limitations on the assessment of homestead property, and this
 322 section, if submitted to the electors of this state for approval
 323 or rejection at a special election authorized by law to be held
 324 on January 29, 2008, shall take effect upon approval by the
 325 electors and shall operate retroactively to January 1, 2008, or,
 326 if submitted to the electors of this state for approval or
 327 rejection at the next general election, shall take effect
 328 January 1 of the year following such general election. The
 329 amendments to Section 4 of Article VII creating subsections (g)
 330 ~~(f)~~ and ~~(h)~~ ~~(g)~~ of that section, creating a limitation on annual
 331 assessment increases for specified real property, shall take
 332 effect upon approval of the electors and shall first limit
 333 assessments beginning January 1, 2009, if approved at a special
 334 election held on January 29, 2008, or shall first limit
 335 assessments beginning January 1, 2010, if approved at the
 336 general election held in November of 2008. Subsections (g) ~~(f)~~
 337 and ~~(h)~~ ~~(g)~~ of Section 4 of Article VII are repealed effective
 338 January 1, 2023 ~~2019~~; however, the legislature shall by joint
 339 resolution propose an amendment abrogating the repeal of
 340 subsections (g) ~~(f)~~ and ~~(h)~~ ~~(g)~~, which shall be submitted to the
 341 electors of this state for approval or rejection at the general
 342 election of 2022 ~~2018~~ and, if approved, shall take effect
 343 January 1, 2023 ~~2019~~.

344 Property assessments.—This section and the amendments to
 345 Section 4 of Article VII authorizing the legislature to prohibit
 346 increases in the assessed value of homestead property that has a
 347 declining just value and reducing the limit on the maximum
 348 annual increase in the assessed value of nonhomestead property

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349 from 10 percent to 7 percent shall take effect January 1, 2013.
 350 Additional homestead exemption.—This section and the
 351 amendment to Section 6 of Article VII providing for an
 352 additional homestead exemption shall take effect January 1,
 353 2013.

354 BE IT FURTHER RESOLVED that the following statement be
 355 placed on the ballot:

356 CONSTITUTIONAL AMENDMENT
 357 ARTICLE VII, SECTIONS 4, 6
 358 ARTICLE XII, SECTION 27

359 PROPERTY TAX LIMITATIONS; ADDITIONAL HOMESTEAD EXEMPTION.—

360 (1) In certain circumstances, the law requires the assessed
 361 value of real property to increase when the just value of the
 362 property is greater than its assessed value. This amendment
 363 authorizes the Legislature, by general law, to prohibit such
 364 increase in the assessment of property whose just value is less
 365 than its just value on the preceding assessment date. This
 366 amendment takes effect January 1, 2013.

367 (2) The State Constitution generally limits increases in
 368 the assessed value of nonhomestead real property for property
 369 tax purposes to 10 percent annually. This amendment reduces that
 370 limit to 7 percent. This amendment takes effect January 1, 2013.

371 (3) This amendment also provides owners of homestead
 372 property an additional homestead exemption for all levies other
 373 than school district levies in an amount equal to 30 percent of
 374 the homestead property's just value between \$75,000 and
 375 \$200,000, plus 15 percent of the homestead property's just value
 376 between \$200,000 and \$400,000. The Legislature may adjust the
 377 amount of the additional homestead exemption but may not reduce

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378 it below what is provided in this amendment. The value of the
 379 additional homestead exemption shall be reduced by the
 380 difference between the just value of the property and its
 381 assessed value. This amendment takes effect January 1, 2013.

382 (4) The State Constitution provides for the automatic
 383 repeal of the provisions that provide a general limit on annual
 384 increases in the assessed value of nonhomestead properties for
 385 the purposes of property taxes. This amendment delays until 2023
 386 the repeal of those provisions, which is currently scheduled to
 387 occur in 2019.

THE FLORIDA SENATE
APPEARANCE RECORD

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

7-23
Meeting Date

Topic Super Homestead

Bill Number SJR 314
(if applicable)

Name Davin Soggs

Amendment Barcode _____
(if applicable)

Job Title Br. Leg. Advocate

Address _____
Street

Phone 850.320.2635

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing FL. ASSOC. 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)

2/23/2012

Meeting Date

Topic Super Home stead Exemption

Bill Number 314
(if applicable)

Name Amber Hughes

Amendment Barcode _____
(if applicable)

Job Title Legislative Advocate

Address PO Box 1757
Street

Phone 701-3621

Tall FL 32302
City State Zip

E-mail ahughes@flcities.com

Speaking: For Against Information

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/23/12
Meeting Date

Topic Assessment caps Bill Number CS/SJR 314
Name William Coleman Amendment Barcode _____ (if applicable)
Job Title Commercial Real Estate Broker/owner/consultant
Address 930 Woodcock Rd suite 200 Phone 407-671-1477
Street Orlando FL 32806 E-mail billcoleman@mfpoer.com
City State Zip

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

23 Feb 12

Meeting Date

Topic Tax Caps

Bill Number 314
(if applicable)

Name Ben Phipps

Amendment Barcode _____
(if applicable)

Job Title Atty

Address 2015. Manroe St
Street

Phone 850-222-7000

TLH _____
City State Zip

E-mail bkp@thehippsfirm.com

Speaking: For Against Information

Representing FAP TP

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 Budget Subcommittee on Finance and Tax

BILL: CS/SB 458

INTRODUCER: Banking and Insurance Committee and Senator Bennett

SUBJECT: Uniform Fraudulent Transfer Act

DATE: February 23, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rubio	Burgess	BI	Fav/CS
2.	Fournier	Diez-Arguelles	BFT	Favorable
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The Florida Uniform Fraudulent Transfer Act, ch. 726, F.S., provides that a transfer made or obligation incurred by a debtor is fraudulent as to a creditor if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation. Under the act, “clawback” actions provide a remedy for creditors who are victims of fraud, by allowing for the fraudulently transferred property to be surrendered or the transfer to be voided. The act provides that a transfer or obligation is not voidable against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee. However, the act does not provide an exception for conveyances accepted by charitable organizations in good faith.

The Federal Bankruptcy Code provides that a trustee may void any transfer of property or any obligation by the debtor, if the debtor voluntarily or involuntarily received less than a reasonably equivalent value in exchange for such transfer or obligation. The code provides that a charitable contribution transferred to a qualified religious or charitable entity or organization is not considered to be a transfer in any case in which the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or if the contribution made by a debtor exceeded the 15 percent of gross

annual income, if the transfer was consistent with the practices of the debtor in making charitable contributions.

The bill amends the Florida Uniform Fraudulent Transfer Act by inserting definitions for a charitable contribution and a qualified religious or charitable entity. The bill provides that a charitable contribution received in good faith by a qualified religious or charitable entity is not a transfer covered under ch. 726, F.S. However, a charitable contribution will be subject to clawback actions if it was received within 2 years before the commencement date of an action under any state or federal law, was not received in good faith, exceeds 15 percent of the gross annual income of the transferor for the year in which the transfer is made, or was inconsistent with the practices of the transferor in making charitable contributions.

This bill substantially amends the following sections of the Florida Statutes: 726.102, and 726.109.

II. Present Situation:

Florida Uniform Fraudulent Transfer Act

The Florida Uniform Fraudulent Transfer Act (act), ch. 726, F.S., provides that a transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:

- With actual intent to hinder, delay, or defraud any creditor of the debtor; or
- Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:
 - Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or
 - Intended to incur, or believed or reasonably should have believed that he or she would incur, debts beyond his or her ability to pay as they became due.¹

The act provides a statutory remedy for creditors who are victims of fraud by allowing for the fraudulently transferred property to be surrendered or the transfer to be voided, which is commonly referred to as a “clawback” action. The act provides for a 4 year statute of limitations on clawback actions. Under the act, a transfer or obligation is not voidable against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.² The act provides that value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied.³ The act does not provide an exception for conveyances accepted by charitable organizations in good faith. The seventh Circuit Court of Appeal has ruled that a similar Illinois law, that did not specifically exclude charities, would not prevent a clawback action by a creditor to recover from a charity, even though the charity took the donation in good faith.⁴

¹ Section 726.105, F.S.

² Section 726.109(1), F.S.

³ Section 726.104(1), F.S.

⁴ *Scholes v. Lehmann*, 56 F.3d 750, 761 (7th Cir. 1995).

Federal Bankruptcy Code

The Federal Bankruptcy Code (code) provides that a trustee may void any transfer of property or any obligation by the debtor, if the debtor voluntarily or involuntarily received less than a reasonably equivalent value in exchange for such transfer or obligation. The debtor must have been insolvent on the date the transfer was made or obligation was incurred, or became insolvent as a result of such transfer or obligation, engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the debtor was an unreasonably small capital, intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor's ability to pay as the debts matured; or made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.⁵ The code provides that a charitable contribution transferred to a qualified religious or charitable entity or organization is not considered to be a transfer in any case in which the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or if the contribution made by a debtor exceeded the 15 percent of gross annual income, if the transfer was consistent with the practices of the debtor in making charitable contributions.⁶ The code provides for a two year statute of limitation.

The code uses the Internal Revenue Code's (IRC) definition for a charitable contribution to a qualified religious or charitable entity or organization. Under the IRC, a charitable contribution to a qualified religious or charitable entity includes a contribution or gift to or for the use of a corporation, trust, or foundation created or organized in the United States, operating exclusively for certain purposes including religious and charitable, no part of the net earnings of which inures to the benefit of any private shareholder or individual; and which is not disqualified for tax exemption under s. 501(c)(3), I.R.C., by reason of attempting to influence legislation.⁷

III. Effect of Proposed Changes:

Senate bill 458 amends s. 726.102, F.S., of the Florida Uniform Fraudulent Transfer Act, by defining "charitable contribution" as the term is defined in s. 170(c), I.R.C., if the contribution is made by a natural person or qualified religious or charitable entity and consists of a financial instrument as defined in s. 731(c)(2)(C), I.R.C., or cash. Section 731(c)(2)(C), I.R.C., defines a financial instrument as including "stocks and other equity interests, evidences of indebtedness, options, forward or futures contracts, notional principal contracts, and derivatives."

The bill defines a "qualified religious or charitable entity or organization" as an entity described in s. 170(c)(1), I.R.C., or an entity or organization described in s. 170(c)(2), I.R.C. The IRC in s. 170(c)(1) defines a qualified entity as a "State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes." Section 170(c)(2) defines a qualified entity as a corporation, trust, or foundation created or organized in the United States, operating exclusively for certain purposes including religious and charitable, no part of the net earnings of which inures to the benefit of any private shareholder or individual; and

⁵ 11 U.S.C.A. §548(a)(1).

⁶ 11 U.S.C.A. §548(a)(2).

⁷ Section 170(c), I.R.C.

which is not disqualified for tax exemption under s. 501(c)(3), I.R.C., by reason of attempting to influence legislation.

The bill provides that a charitable contribution transfer that is received in good faith by a qualified religious or charitable entity or organization is not a transfer covered under ch. 726, F.S. However, under the bill the transfer of a charitable contribution received on or within 2 years before the commencement date of an action under any state or federal law will not be shielded from clawback actions unless the transfer is received in good faith and does not exceed 15 percent of the gross annual income of the transferor for the year in which the transfer is made or if the transfer does exceed 15 percent it must be consistent with the practices of the transferor in making charitable contributions.

Other Potential Implications:

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the bill, creditors will be able to void transfers received on or within 2 years prior to the commencement date of an action under any state or federal law that exceed 15 percent of the transferor's gross annual income for the year in which the transfer is made or are inconsistent with practices of the transferor in making charitable contributions.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Implementation of this bill would result in conformity between state and federal law in the balance of protections for charitable organizations and creditors.

VIII. 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 on February 7, 2012:

The committee substitute makes the following major changes:

- Defines charitable contribution.
- Defines qualified religious or charitable entity.
- Provides that a charitable contribution received in good faith by a qualified religious or charitable entity is not a transfer covered under ch 726, F.S.
- Provides that a transfer of a charitable contribution received on or within 2 years before the commencement date of an action under any state or federal law will not be shielded from clawback actions unless the transfer is received in good faith and does not exceed 15 percent of the gross annual income of the transferor for the year in which the transfer is made or if the transfer does exceed 15 percent it must be consistent with the practices of the transferor in making charitable contributions.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Bennett

597-03060-12

2012458c1

1 A bill to be entitled
 2 An act relating to the Uniform Fraudulent Transfer
 3 Act; amending s. 726.102, F.S.; defining the terms
 4 "charitable contribution" and "qualified religious or
 5 charitable entity or organization"; amending s.
 6 726.109, F.S.; exempting certain transfers of
 7 charitable contributions from the provisions of ch.
 8 726, F.S.; providing for application of the act;
 9 providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Subsections (3), (4), (5), (6), (7), (8), (9),
 14 (10), (11), (12), and (13) of section 726.102, Florida Statutes,
 15 are renumbered as subsections (4), (5), (6), (7), (8), (9),
 16 (10), (11), (13), (14), and (15), respectively, and new
 17 subsections (3) and (12) are added to that section, to read:

18 726.102 Definitions.—As used in ss. 726.101-726.112:
 19 (3) "Charitable contribution" means a charitable
 20 contribution as that term is defined in s. 170(c) of the
 21 Internal Revenue Code of 1986, if that contribution:
 22 (a) Is made by a natural person or a qualified religious or
 23 charitable entity or organization; and
 24 (b) Consists of:
 25 1. A financial instrument as that term is defined in s.
 26 731(c) (2) (C) of the Internal Revenue Code of 1986; or
 27 2. Cash.
 28 (12) "Qualified religious or charitable entity or
 29 organization" means:

Page 1 of 2

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

597-03060-12

2012458c1

30 (a) An entity described in s. 170(c) (1) of the Internal
 31 Revenue Code of 1986; or
 32 (b) An entity or organization described in s. 170(c) (2) of
 33 the Internal Revenue Code of 1986.
 34 Section 2. Subsection (7) is added to section 726.109,
 35 Florida Statutes, to read:
 36 726.109 Defenses, liability, and protection of transferee.—
 37 (7) (a) Except as provided in paragraph (b), a transfer of a
 38 charitable contribution that is received in good faith by a
 39 qualified religious or charitable entity or organization is not
 40 a transfer that is covered by this chapter.
 41 (b) A transfer of a charitable contribution that was
 42 received on or within 2 years before the date of commencement of
 43 an action under this chapter or the commencement of proceedings
 44 under any state or federal law, including the appointment of an
 45 assignee for the benefit of creditors, appointment of a trustee
 46 or receiver, or the filing of a petition under the Federal
 47 Bankruptcy Code, is not entitled to the protection of paragraph
 48 (a) unless the transfer was received in good faith, and:
 49 1. The amount of the contribution does not exceed 15
 50 percent of the gross annual income of the transferor for the
 51 year in which the transfer of the contribution is made; or
 52 2. The contribution made by the transferor exceeded the
 53 percentage amount of gross annual income specified in
 54 subparagraph 1., if the transfer was consistent with the
 55 practices of the transferor in making charitable contributions.
 56 Section 3. This act shall take effect July 1, 2012, but
 57 does not apply to transfers that are avoided by the entry of a
 58 judgment prior to July 1, 2012.

Page 2 of 2

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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)

2/23/12
Meeting Date

Topic Fraudulent Transfer

Bill Number 458
(if applicable)

Name Stephania Feltz

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 201 S. Tuttle Ave

Phone 941-366-6646

Street
Sarasota, FL 34237
City State Zip

E-mail Stephania@girls
ind.org

Speaking: For Against Information

Representing Girls Inc

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)

2/23/12
Meeting Date

Topic Uniform Fraudulent Transfer Act Bill Number CS/SB 458
(if applicable)

Name ~~A~~ Greg Melchior Amendment Barcode _____
(if applicable)

Job Title Interim General Counsel, Office of Financial Reg.

Address 101 E Gaines, Ste 118 Phone (813) 218-5327
Street

Tallahassee, FL 32399 E-mail greg.melchior@flafr.com
City State Zip

Speaking: For Against Information

Representing Florida Office of Financial Regulation (OFR)

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

2/23/12

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

Meeting Date

Quaver in support

Topic Uniform Fraudulent Transfer Act

Bill Number 458 (if applicable)

Name Michael Sheedy

Amendment Barcode (if applicable)

Job Title Associate Director

Address 201 W. Park Ave.

Phone 850-222-3803

Street

Tall.

City

FL

32301

State Zip

E-mail

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

Representing Florida Catholic Conference

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

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

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

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

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 Budget Subcommittee on Finance and Tax

BILL: SB 592

INTRODUCER: Senator Siplin

SUBJECT: Sales Tax/Fresh Fruit and Vegetable Packinghouses

DATE: February 16, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhvein	Buford	AG	Favorable
2.	Cote	Diez-Arguelles	BFT	Pre-meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

SB 592 provides a sales tax exemption for electricity used directly or indirectly in fresh fruit and vegetable packinghouses. The exemption does not apply to electricity used in buildings or structures where agricultural products are sold at retail.

This bill amends section 212.08, of the Florida Statutes.

II. Present Situation:

A packinghouse is a facility where fresh fruits and vegetables are cleaned, sorted, sized and sometimes packaged prior to distribution to markets and stores. Current law exempts electricity used directly or indirectly for production or processing of agricultural products on a farm from the sales and use tax.¹ While electricity used in packinghouses located on a farm are exempt, packinghouses not located on a farm are subject to sales tax on the electricity consumed. The Florida state sales tax rate for non-residential electricity purchases is 7%.² In addition, county governments may impose a local discretionary sales tax.³

III. Effect of Proposed Changes:

Section 1 amends s. 212.08, F.S., to provide a sales tax exemption for electricity used directly or indirectly in a packinghouse. It changes the definition of “packinghouse” to include any building

¹ Section 212.08(5)(e), F.S.

² Section 212.05(1)(e), F.S.

³ Section 212.054, F.S.

or structure where fresh fruits and vegetables are packed or prepared for market or shipment, whether or not the packinghouse is physically located on a farm. The bill specifies that the tax exemption does not apply to electricity used in buildings or structures where agricultural products are sold at retail.

Section 2 provides that this act shall take effect July 1, 2012.

Other Potential Implications:

None.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The November 10, 2011, Revenue Estimating Conference estimated that the provisions of this bill would result in a recurring negative fiscal impact of \$900,000 to the state and \$200,000 to local governments, for a total negative recurring impact of \$1.1 million.

B. Private Sector Impact:

Persons operating packinghouses for the packaging of fruits and vegetables for market or shipment in fresh form for wholesale distribution will no longer pay sales tax for the electricity used in the packinghouse.

C. Government Sector Impact:

See Tax/Fee Issues above.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.



892004

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/23/2012	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Finance and Tax (Altman) recommended the following:

Senate Amendment

Delete lines 36 - 37
and insert:
term "packinghouse" means any building or structure where
fruits, vegetables, or meats are packed or otherwise prepared
for market or



358890

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/23/2012	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Finance and Tax (Altman) recommended the following:

Senate Amendment

Delete lines 36 - 37
and insert:
term "packinghouse" means any building or structure where
fruits, vegetables, or meat from cattle or hogs is packed or
otherwise prepared for market or

By Senator Siplin

19-00596-12

2012592__

A bill to be entitled

An act relating to exemptions from the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing an exemption for electricity used by fresh fruit and vegetable packinghouses; defining the term "packinghouse"; providing an effective date.

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

Section 1. Paragraph (e) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(e) *Gas or electricity used for certain agricultural purposes.*—

1. Butane gas, propane gas, natural gas, and all other forms of liquefied petroleum gases are exempt from the tax imposed by this chapter if used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm and no part of which gas is used in any vehicle or equipment driven or operated on the public highways of this state. This restriction does not apply to the movement of farm vehicles or farm equipment between farms. The transporting of bees by water and the operating of

Page 1 of 2

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19-00596-12

2012592__

equipment used in the apiary of a beekeeper is also deemed an exempt use.

2. Electricity used directly or indirectly for production, packing, or processing of agricultural products on the farm, or used directly or indirectly in a packinghouse, is exempt from the tax imposed by this chapter. As used in this subsection, the term "packinghouse" means any building or structure where fruits and vegetables are packed or otherwise prepared for market or shipment in fresh form for wholesale distribution. The exemption does not apply to electricity used in buildings or structures where agricultural products are sold at retail. This exemption applies only if the electricity used for the exempt purposes is separately metered. If the electricity is not separately metered, it is conclusively presumed that some portion of the electricity is used for a nonexempt purpose, and all of the electricity used for such purposes is taxable.

Section 2. This act shall take effect July 1, 2012.

Page 2 of 2

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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)

2/23/12

Meeting Date

Topic Fresh Fruit Packinghouses Bill Number 592
(if applicable)

Name Doug Bournique Amendment Barcode _____
(if applicable)

Job Title Ex. Vice President Indian River Citrus League

Address 7925 20th St. Vero Phone 772 5622728
Street

Vero Fl. 32963 E-mail info@ircitrusleague.org
City State Zip

Speaking: For Against Information

Representing Indian River Citrus League

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)

Meeting Date _____

Topic Sales Tax Exemption for Packhouses Bill Number 592
Name Richard Kinney (if applicable)
Job Title Gen. Manager FL Packers Amendment Barcode _____ (if applicable)
Address PO Box 1113 Phone _____
Street
Labeland FL 33802 E-mail rkinney@citruspackers.org
City State Zip *018*
Speaking: For Against Information

Representing Fla. Citrus Packers

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Tax Exemption Bill Number 592
Name Ben Parks (if applicable)
Job Title Legislative Director Amendment Barcode _____ (if applicable)
Address 315 S. Calhoun St. Phone 222-2557
Street Tallahassee FL E-mail bparks@lotusmail.com
City *State* *Zip*

Speaking: For Against Information

Representing Florida Farm Bureau

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 Budget Subcommittee on Finance and Tax

BILL: CS/SB 750

INTRODUCER: Education Pre-K-12 Committee and Senator Flores

SUBJECT: School District Bonds

DATE: February 23, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	deMarsh-Mathues	ED	Fav/CS
2.	Diez-Arguelles	Diez-Arguelles	BFT	Favorable
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill revises two statutory requirements for the form of bonds issued by school districts. The requirement that bonds be retired within 20 years unless a longer period is approved by the Department of Education (DOE) is extended to 30 years. The requirement that bonds bearing interest at a rate in excess of 2.99 percent be callable¹ beginning no later than 10 years from the date of issuance is deleted.

This bill amends s. 1010.49, Florida Statutes.

II. Present Situation:

The State Constitution authorizes school districts and other local governmental bodies with taxing powers to issue bonds payable from ad valorem taxes for the following purposes:

- To finance or refinance capital projects authorized by law when approved by the taxpayers in a referendum; or

¹ A callable bond is redeemable before the bond reaches its date of maturity.

- To refinance bonds at a lower net average interest rate.²

Section 215.055(6), F.S., authorizes a school board to impose a discretionary sales surtax of up to 0.5 percent, upon approval of the voters in a referendum, to fund capital outlay projects with a life expectancy of more than 5 years. A school board may issue bonds to be paid back with surtax revenues.

Section 1010.49, F.S., prescribes the form and denomination of school board bonds. The schedule of maturities of the bonds must be so arranged that the total payments required each year will be as nearly equal as practicable. The schedule must provide that all bonds are to be retired within a period of 20 years from the date of issuance unless a longer period is required and has been specifically approved by the Department of Education. All bonds that bear interest in excess of 2.99 percent must be callable on terms prescribed by the district school board, beginning not later than 10 years from the date of issuance.

III. Effect of Proposed Changes:

This bill revises the requirements for the form and duration of school district bonds to:

- Allow bonds to be issued for a period of 30 years, instead of 20 years, unless the DOE approves a longer period; and
- Remove the requirement that bonds bearing interest in excess of 2.99 percent must be callable beginning not later than 10 years and allow the school board to set the terms and the time period under which bonds will be callable.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

² Fla. Const., art. VII, s. 12.

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

None

B. Private Sector Impact:

The effect on the private sector of the flexibility in structuring bonds that the bill affords to school boards is indeterminate.

C. Government Sector Impact:

In structuring debt for locally-funded capital outlay projects, school districts would have the flexibility to pay off the debt over a period of 30 years rather than 20, or over a longer period of time if the DOE approved the longer period. The school district would have the discretion to set the time when a bond is callable or to issue non-callable bonds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by Education Pre-K-12 on February 6, 2012:

The committee substitute:

- Maintains the current statutory requirement for yearly payments to be as equal as practicable; and
- Establishes the maximum duration for bonds at 30 years unless the DOE approves a longer period.

B. Amendments:

None.

By the Committee on Education Pre-K - 12; and Senator Flores

581-02977-12

2012750c1

1 A bill to be entitled
2 An act relating to bonds; amending s. 1010.49, F.S.;
3 revising the period for which bonds are to be retired;
4 providing that all bonds are callable at times and
5 upon terms prescribed by the district school board;
6 providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Section 1010.49, Florida Statutes, is amended to
11 read:
12 1010.49 Form and denomination of bonds.—The district school
13 board may prescribe the denomination of the bonds to be issued,
14 and such bonds may be issued with or without interest coupons in
15 the discretion of the board. The form of the bonds to be issued
16 may be prescribed by the State Board of Education on the
17 recommendation of the Department of Legal Affairs. The schedule
18 of maturities of the proposed bonds shall be so arranged that
19 the total payments required each year shall be as nearly equal
20 as practicable. The schedule shall provide that all bonds are to
21 be retired within a period of 30 ~~20~~ years from the date of
22 issuance unless a longer period is required and has been
23 specifically approved by the Department of Education. All bonds
24 issued under this section ~~that bear interest in excess of 2.99~~
25 ~~percent~~ shall be callable at the times and upon the ~~on~~ terms
26 prescribed by the district school board ~~beginning not later than~~
27 ~~10 years from the date of issuance.~~
28 Section 2. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Finance and Tax

BILL: SB 806

INTRODUCER: Senator Dean

SUBJECT: Enterprise Zones/Citrus County

DATE: February 23, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tell	Hrdlicka	CM	Favorable
2.	Roam	Yeatman	CA	Favorable
3.	Cote	Diez-Arguelles	BFT	Favorable
4.			BC	
5.				
6.				

I. Summary:

Florida has 62 enterprise zones, which are designed to encourage economic development and restoration in blighted or economically depressed communities. A combination of state and local business incentives is intended to encourage economic activity in these zones.

SB 806 creates an opportunity for Citrus County to apply for and receive an enterprise zone designation. Citrus County officials are considering locating the proposed enterprise zone in the Inverness Airport Business Park. The Inverness Airport Business Park is located adjacent to the Inverness Airport on 88 acres of county-owned land.

Citrus County is directed to file its enterprise zone application with the Department of Economic Opportunity (DEO) by December 31, 2012. The application must comply with the nominating procedure in s. 290.0055, F.S. DEO has the discretion to designate an enterprise zone for Citrus County, and if that happens, must establish the enterprise zone's effective date.

SB 806 creates s. 290.00729, F.S.

II. Present Situation:

Enterprise zones in Florida

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 62 enterprise zones.¹

The Department of Economic Opportunity (DEO) reported that 7,559 new businesses moved into or were created in state enterprise zones between October 1, 2009, and September 30, 2010 – more than double the number the previous fiscal year.² However, fewer jobs were created – 6,784 last fiscal year, compared to 9,073 in the prior period.³ More than \$67 million in state and nearly \$20 million in local-government financial incentives were approved during FY 09-10, \$30 million more than in the prior period.⁴

Over the last 5 years (FY 05-06 through FY 09-10), some 21,682 new businesses have moved into or were created in enterprise zones and 49,403 new jobs have been created.⁵

Designation process

Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that an area:⁶

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
- Can be revitalized through the inducement of the private sector.

DEO is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

¹ Ch. 2011-76, L.O.F., created the potential for three additional enterprise zones: in Martin County, in the City of Palm Bay, and in Lake County. DEO has since approved each community's application. These new enterprise zones became effective on January 1, 2012.

² Enterprise Florida, Inc., *Florida Enterprise Zone Program Annual Report, October 1, 2009 - September 30, 2010*, 1 (Mar. 1, 2011), available at <http://floridaenterprisezones.com/Zones/Org1/uploads/2011EZAnnualReport.pdf> (last visited Jan. 17, 2012).

³ Id.

⁴ Id. at 3.

⁵ Information compiled by committee staff from the Enterprise Florida's previous enterprise zone annual reports.

⁶ Section 290.0055, F.S.

As outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least eight, and no more than 13, members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation, and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying to the local government the financial needs of, and local resources or assistance available to, eligible businesses in the zone;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and
- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Pursuant to s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area;
- Describe how the community's social and human resources, transportation, housing, community development, public safety, and education and environmental concerns will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Available incentives

Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities.⁷ As noted above, DEO reported that \$67.6 million in state incentives were approved by the Department of Revenue (DOR), between October 1, 2009, and September 30, 2010, for all state enterprise zones. During that same time period, \$19.9 million in incentives were provided by local governing bodies, half of the FY 07-08 total. Examples of local incentives include: utility tax abatement, reduction of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.⁸

⁷ Section 290.007, F.S.

⁸ Enterprise Florida, Inc., *supra*, note 2 at 3.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain building materials, up to \$5,000 or 97 percent of the tax paid.⁹
- Business Equipment Used in Enterprise Zones: Provides a refund for sales taxes paid on the purchase of certain equipment, up to \$5,000 or 97 percent of the tax paid.¹⁰
- Rural Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.¹¹
- Urban Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.¹²
- Business Property Used in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain business property, up to \$5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an enterprise zone for at least 3 years.¹³
- Community Contribution Tax Credit: Provides a 50 percent sales tax refund for donations made to local community development projects.¹⁴
- Electrical Energy Used in an Enterprise Zone: Provides a 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy.¹⁵

Available state corporate income tax incentives for enterprise zones include:

- Rural Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.¹⁶
- Urban Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.¹⁷
- Enterprise Zone Property Tax Credit: Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.¹⁸
- Community Contribution Tax Credit: Provides a 50 percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.¹⁹

⁹ Section 9 of ch. 2010-147, L.O.F., removed the eligibility of condominium parcels or property, as defined in s. 718.103, F.S., for the sales tax exemption for building materials, pursuant to s. 212.08(5)(g), F.S.

¹⁰ Section 212.08(5)(h), F.S.

¹¹ Section 212.096, F.S.

¹² Id.

¹³ *Supra*, note 10.

¹⁴ Section 212.08(5)(p), F.S.

¹⁵ Section 212.08(15), F.S.

¹⁶ Section 220.181, F.S.

¹⁷ Id.

¹⁸ Section 220.182, F.S.

¹⁹ See ss. 220.183 and 624.5105, F.S.

5-Year Summary of State Incentives offered in the Enterprise Zone Program²⁰

CATEGORY	FY 09-10	FY 08-09	FY 07-08	FY 06-07	FY 05-06
Jobs Tax Credit (SUT)	\$5,683,252	\$5,227,245	\$5,732,605	\$6,087,843	\$6,777,250
Jobs Tax Credit (CIT)	\$4,348,031	\$5,072,555	\$5,507,311	\$5,919,236	\$4,253,621
Property Tax Credit (CIT)	\$1,384,668	\$1,910,708	\$2,184,036	\$2,291,961	\$1,267,999
Building Materials (SUT Refund)	\$54,012,915	\$30,994,860	\$25,665,025	\$18,855,129	\$7,415,711
Business Equipment (SUT Refund)	\$1,035,562	\$1,139,066	\$1,269,955	\$1,771,396	\$2,940,864
Electrical Energy (SUT exempt)	\$1,138,054	\$1,007,007	\$606	\$793,179	\$778,090
Total Value of State Incentives	\$67,602,482	\$45,351,441	\$40,359,538	\$35,718,744	\$23,433,535
# of EZs	59	56	56	56	55

The total state incentives awarded over the last 5 years is \$212.5 million. Of that amount, nearly \$137 million, about 64 percent, has been in the form of refunds of sales and use tax on building materials used in enterprise zones.

Program evaluations

In the 29 years since enacted by the Legislature, the Florida Enterprise Zone Program has undergone numerous changes, many of them the result of two “sunset reviews” of the overall program, in 1994 and 2005. A number of Senate and House interim project reports and program evaluations by the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Florida Auditor General have been written on the program.

The most recent program evaluation was prepared by OPPAGA last fall and published in January 2011.²¹ Among OPPAGA’s findings were:

- The most-used incentive, over the last 5 years, has been the sales and use tax refund on building materials because of claims from condominium developers.
- Applicants in 10 enterprise zones received 84 percent of the incentives, with applicants in Miami-Dade’s enterprise zone receiving 55 percent of the total amount.
- Based on OPPAGA’s review of the incentive applications over the last 5 years, there is a low participation rate among eligible businesses for the incentives. For example, only 402 businesses have taken advantage of the jobs tax credits, and they hired a total of 8,086 employees who lived within the zones.

²⁰ *Supra*, note 2 at 3.

²¹ Office of Program Policy Analysis and Gov’t Accountability, Florida Legislature, *Few Businesses Take Advantage of Enterprise Zone Benefits; the Legislature Could Consider Several Options to Modify the Program*, Report No. 11-01, (Jan. 1, 2011), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf> (last visited Jan. 20, 2012).

- DOR does not have consistent procedures for reviewing, validating, processing, and reporting the different tax credit and tax refund incentives. OPPAGA concluded that these inconsistencies may frustrate eligible businesses interested in applying for the incentives, prevents local zone coordinators and DEO from obtaining the most accurate information about program incentives taken, and makes it more difficult for OPPAGA and the Legislature to fully evaluate the incentives.

Citrus County's enterprise zone proposal²²

Citrus County officials are pursuing an enterprise zone designation for up to 88 acres in the Inverness Airport Business Park area. This area is envisioned to include light manufacturing facilities, aviation-related businesses, and environmental firms. Citrus County has recently taken several steps to attract new and expanding businesses. Among those are:

- Expanding the Inverness Airport runway to 5,000 ft. to accommodate a wide array of aircraft;
- New road construction;
- Re-engineering to enhance water and sewer systems; and
- Improving hangar and office space to attract new businesses.

Citrus County officials believe that designation of this area as an enterprise zone will help in its ability to attract new and expanding businesses.

III. Effect of Proposed Changes:

Section 1 creates s. 290.00729, F.S., to allow Citrus County to seek designation of an enterprise zone within its boundary. Citrus County has until December 31, 2012, to file its application with DEO. The application must meet the requirements of s. 290.0055, F.S., which establishes some of the criteria and details the process by which a local government seeks an enterprise zone designation. While not addressed in this bill, the Citrus County enterprise zone would be limited to an area of up to 20 square miles, as mandated by s. 290.0055, F.S.

The section also specifies that notwithstanding s. 290.0065, F.S., limiting the number of enterprise zones in Florida, DEO may designate one enterprise zone for Citrus County. DEO also is directed to set the initial effective date for the new enterprise zone.

Section 2 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²² Information provided by John Siefert, Executive Director for the Citrus County Economic Development Council, in a Jan. 17, 2012, e-mail on file with the Senate Committee on Commerce and Tourism.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference met on November 3, 2011, and determined that the passage of SB 806 would result in:

- A recurring negative fiscal impact of \$100,000 to general revenue sales tax collections;
- A recurring insignificant negative fiscal impact to general revenue corporate income tax collections;
- A recurring insignificant negative fiscal impact to state trust funds; and
- A recurring insignificant negative fiscal impact to local governments.²³

B. Private Sector Impact:

Indeterminate. The positive economic impact could be significant to the businesses that locate or already are within the enterprise zone, because of their potential tax savings. Job-seekers also could benefit from employment opportunities afforded them by businesses within the new zone. Finally, consumers could benefit because of the greater diversity of businesses and entertainment options within the enterprise zone.

C. Government Sector Impact:

Indeterminate, but likely minimal. Other than the initial review of Citrus County's application and decision whether to approve or reject it, the workload on DEO staff likely will be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²³ Office of Economic and Demographic Research, The Florida Legislature, *Revenue Estimating Conference for 2012 Regular Session – Enterprise Zone – Citrus County, HB 371/SB 806* (Nov. 3, 2011), available at <http://edr.state.fl.us/content/conferences/revenueimpact/archives/2012/pdf/page48-50.pdf> (last visited Jan. 20, 2012).

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial 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 Dean

3-00808-12

2012806__

1 A bill to be entitled

2 An act relating to enterprise zones; creating s.

3 290.00729, F.S.; authorizing Citrus County to apply to
4 the Department of Economic Opportunity for designation
5 of an enterprise zone; providing an application
6 deadline and requirements; authorizing the department
7 to designate an enterprise zone in Citrus County;
8 requiring the department to establish the effective
9 date of the enterprise zone; providing an effective
10 date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Section 290.00729, Florida Statutes, is created
15 to read:

16 290.00729 Enterprise zone designation for Citrus County.—
17 Citrus County may apply to the department for designation of one
18 enterprise zone for an area within Citrus County. The
19 application must have been submitted by December 31, 2012, and
20 must comply with the requirements of s. 290.0055.
21 Notwithstanding s. 290.0065 limiting the total number of
22 enterprise zones designated and the number of enterprise zones
23 within a population category, the department may designate one
24 enterprise zone under this section. The department shall
25 establish the initial effective date of the enterprise zone
26 designated under this section.

27 Section 2. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Finance and Tax

BILL: CS/CS/SB 1060

INTRODUCER: Community Affairs Committee; Communications, Energy, and Public Utilities Committee; and Senator Bogdanoff

SUBJECT: Communications Services Taxes

DATE: February 16, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Carter	CU	Fav/CS
2.	Toman	Yeatman	CA	Fav/CS
3.	Cote	Diez-Arguelles	BFT	Pre-meeting
4.			BC	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 1060 makes numerous changes to the communication services tax. The bill:

- defines the terms “digital good” and “digital service” and provides that both are exempted from the communications services tax;
- defines the term “internet access” by referencing federal statute;
- defines the term “sales price” to allow additional nontaxable items to be billed together without the entire amount being taxable;
- replaces the term “cable service” with “video service”;
- provides that for a dealer of communications services who is obligated to collect and remit a local communications services tax to be liable for assigning a service address to an incorrect local taxing jurisdiction, the dealer’s failure to use one or more of the specified assignment methods must be the cause of a net aggregate underpayment of the local communications services taxes and the Department of Revenue (DOR) must determine the misallocations between jurisdictions for all taxes levied and collected by the dealer with respect to any tax period being examined;
- makes specified definitions and liability provisions retroactive and remedial; and
- makes conforming changes.

The bill substantially amends the following sections of the Florida Statutes: 202.105, 202.11, 202.125, 202.16, 202.18, 202.195, 202.20, 202.22,, 202.231, 202.24, 202.26, 203.01, 610.118, and 624.105.

The bill also creates an undesignated section of law.

II. Present Situation:

Chapter 202, F.S., is the Communications Services Tax Simplification Law. This law restructured taxes applicable to a broad array of communication services, including local and long distance telephone service, cable television, direct-to-home satellite television, and other related services.

The communication services tax (CST) replaced and consolidated several different state and local taxes and fees into two taxes: the Florida CST and the local CST. The Florida CST is established in s. 202.12, F.S., and is applied at a rate of 6.65 percent to all communications services except direct-to-home satellite services, which are taxed at a rate of 10.8 percent. The local CST is established in s. 202.19, F.S., varies by jurisdiction, and is not applicable to direct-to-home satellite services. The Florida CST and the local CST are collected by communications service providers and remitted to the Department of Revenue (DOR), who distributes the proceeds to the appropriate jurisdictions.

Chapter 203, F.S., provides for gross receipts tax of 2.52 percent applied to communication services. The state CST and gross receipt tax result in a combined state rate of 9.17 percent applied to the purchase of most communication services. Direct-to-home services are taxed at a gross receipts tax rate of 2.37 percent, for a combined state CST and gross receipt state tax rate of 13.17 percent. The local CST tax rate is up to 7.12 percent, depending on the location of the customer.

Current law defines communication services as “the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance.”¹ Section 202.11(2), F.S., lists a number of items excluded from the communication services tax, such as information services, bad check and late payment charges, internet access services, and the sale or rental of tangible personal property.

Digital Goods and Services

There is currently no provision in ch. 202, F.S., defining “digital goods” or “digital services” or providing for their communication services tax treatment.

Situsing

Section 202.22, F.S., provides for the determination of local tax situs. It provides that a dealer of communications services who is obligated to collect and remit a local communications services tax is held harmless from any liability, including tax, interest, and penalties, which would

¹ Section 202.11(2), F.S.

otherwise be due solely as a result of an assignment of a service address to an incorrect local taxing jurisdiction, if the dealer exercises due diligence in applying one or more of the following methods for determining the local taxing jurisdiction in which a service address is located:

- employing an electronic database provided by the department;
- employing a database developed by the dealer or supplied by a vendor which has been certified by the department;
- employing enhanced zip codes to assign each street address, address range, post office box, or post office box range in the dealer's service area to a specific local taxing jurisdiction; or
- if an enhanced zip code is unsatisfactory for stated reasons, the dealer of communications services or its database vendor must assign the affected service addresses to one specific local taxing jurisdiction within the zip code based on a reasonable methodology meeting one of the specified criteria.

The statute requires DOR to create and maintain an electronic database that designates for each street address, address range, post office box, or post office box range in the state, including any multiple postal street addresses applicable to one street location, the local taxing jurisdiction in which the street address, address range, post office box, or post office box range is located and the appropriate code for each such local taxing jurisdiction, identified by one nationwide standard numeric code.

If a dealer of communications services does not use one or more of the specified methods for determining the local taxing jurisdiction in which a service address is located, the dealer may be held liable for any tax, including interest and penalties, which is due as a result of assigning the service address to an incorrect local taxing jurisdiction.

Taxation of items that are not separately stated

Section 202.11(13), F.S., defines the "sales price" as the total amount charged by a dealer, including any services that are part of the sale. Therefore, if a single line item contains both communication services and products that are not communication services, the CST is imposed on the entire sales price, unless the non-communication service product is Internet access and the charges for Internet access can be reasonably identified. If a dealer wishes to carve out nontaxable items², those items would need to be separately stated.

Federal law exempts Internet access from state or local taxation.³ In complying with that directive, s. 202.11(13)(b)(8), F.S., allows charges for Internet access services that are not separately itemized on a customer's bill and which can be reasonably identified from the selling dealer's books and records to be excluded from the taxable sales.

III. Effect of Proposed Changes:

Section 1 amends s. 202.105(1), F.S., which provides legislative findings and intent and includes language about the "convergence of service offerings that is now taking place among providers."

² E.g., the sale or rental of personal property such as a cable box.

³ 47 U.S.C. §151.

The bill deletes this language and replaces it with the “multitude of providers offering functionally equivalent communications services in today’s marketplace.”

Section 2 amends s. 202.11, F.S., which provides definitions. The bill:

- deletes the term “cable services” from the definition of “communications services” and replaces it with “video services,” to recognize that other traditional types of communications companies now offer video services, not just traditional cable companies;
- includes digital goods and digital services in the exclusions from the definition of “communications services,”
- defines “digital good” as any downloaded good or product that is delivered or transferred by means other than tangible storage media, including downloaded games, software, music, or other digital content. The term does not include video service, which remains taxable.
- defines “digital service” as any service, other than video service, which is provided electronically, including remotely provided access to or use of software or another digital good. “Digital service” also includes the following services, if they are provided remotely: monitoring, security, distance learning, energy management, medical diagnostic, mechanical diagnostic, and vehicle tracking services;
- defines “Internet access service” to have the same meaning as the term “Internet access” provided by s. 1105(5) of the Internet Tax Freedom Act, 47 U.S.C. s. 151 note, as amended by Pub. L. No. 110-108; and
- revises the definition of “sales price” to expand the existing provisions relating to what charges a dealer may exclude from the taxable sales price of communication services.⁴ The bill provides that the dealer may exclude charges for any good or service that is exempt from the CST, except those listed in renumbered s. 202.11(15)(a), F.S., so long as those exempt items can be reasonably identified from the selling dealer’s books and records. The bill extends the list of allowable excluded charges that do not need to be separately stated from Internet access to any good or service that is not otherwise taxable.

Section 3 amends s. 202.125, F.S., to change a reference to “cable services” to “video services.”

Section 4 amends s. 202.16, F.S., to change a reference to cable service to video service, and adds the “purchase of video programming” to charges that must comply with DOR rules.

Section 5 amends s. 202.18, F.S., to conform to new situsing procedures.

Section 6 amends s. 202.195, F.S., clarifying the public records exemption for proprietary confidential business information. It also replaces references to cable companies with references to video service providers.

Section 7 amends s. 202.20, F.S., to change a reference to cable service to video service.

Section 8 amends s. 202.22, F.S., modifying the situsing procedure for assigning customer service addresses to local taxing jurisdictions. The bill provides that a dealer may be held liable for the net aggregate underpayment of the tax, and for interest and penalties attributable to the net aggregate underpayment of tax, which is due as a result of assigning one or more service

⁴ Currently only applicable to the cost of Internet access,

addresses to an incorrect local taxing jurisdiction if the dealer failed to use one or more of the specified methods and if:

- the dealer's failure to use one or more of such methods results in a net aggregate underpayment of the local communications services taxes with respect to one or more tax periods that are being examined by the department; and
- the department has determined the misallocations between jurisdictions for all taxes levied and collected by the dealer with respect to any tax period being examined by the department.

Section 9 amends s. 202.231, F.S. to require the department to publish on its website the gross taxable sales and net tax information contained in the monthly reports provided to each jurisdiction imposing the local communications services tax. The data should be aggregated on a jurisdiction-by-jurisdiction basis.

Section 10 amends s. 202.24, F.S., to delete references to cable services.

Section 11 amends s. 202.26, F.S., to conform a cross-reference.

Section 12 amends s. 203.01, F.S., to conform a cross-reference.

Section 13 amends s. 610.118, F.S., to conform a cross-reference.

Section 14 amends s. 624.105, F.S., to conform a cross-reference.

Section 15 creates an undesignated section of law to provide for retroactive application of specified sections of the bill.

Section 16 provides that the bill takes effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18 of the Florida Constitution, may apply because this bill may reduce the revenues collected by local governments by revising the liability dealers of communications services have in cases of underpayment due to incorrectly assigned service addresses and by the other changes made in this bill. Also, this bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) estimates the changes to dealer liability for incorrectly assigned service addresses will have a recurring negative impact to local governments of \$4.7 million.⁵

The conference also adopted indeterminate negative estimates related to:

- the “digital services” definition,⁶
- the “digital goods” definition,⁷
- the unbundling and exclusion from sales price of any property except those specifically enumerated as part of the sales price,⁸ and
- the remedial and retroactive application of the CS.⁹

While the conference adopted negative indeterminate impacts for the above items, the conference estimated the impact from the remedial and retroactive language would be at least (\$0.6m) in FY2012-13. In addition, the conference agreed, that although the full scope of the unbundling provisions are indeterminate, the recurring annual impacts will be at least (\$11.3m) for gross receipts tax, (\$2.9m) for state sales and use taxes, and (\$21.2m) for local government communication services taxes.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

See Tax/Fee Issues.

⁵ Office of Economic and Demographic Research, The Florida Legislature, *Impact Analysis for HB 809 and SB 1060: Changes to Language Regarding Assignment of Current Local Taxing Jurisdictions* (Jan. 19, 2012) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page249-252.pdf>.

⁶ Office of Economic and Demographic Research, The Florida Legislature, *Impact Analysis for HB 809 and SB 1060: Exclusion of Digital Services/Digital Services Definition* (Jan. 19, 2012) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page242-244.pdf>.

⁷ Office of Economic and Demographic Research, The Florida Legislature, *Impact Analysis for HB 809 and SB 1060: Exclusion of Digital Goods/Digital Goods Definition* (Jan. 19, 2012) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page239-241.pdf>.

⁸ Office of Economic and Demographic Research, The Florida Legislature, *Impact Analysis for Proposed amendment 2 to CS/HB 809 and CS/CS/CSSB 1060: Unbundling and Exclusion from Sales Price of Any Property or Services Except Those Specifically Enumerated as Part of Sales* (Feb. 16, 2012) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page456-461.pdf>.

⁹ Office of Economic and Demographic Research, The Florida Legislature, *Impact Analysis for Proposed amendment 2 to CS/HB 809 and CS/CS/SB 1060: Remedial and Retroactive* (Feb 16, 2012) available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page245-246.pdf>.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. 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 Committee on February 6, 2012:

- removes an amended definition for “pre-paid calling arrangement.”

CS by Communications, Energy, and Public Utilities Committee on January 30, 2012:

- deletes provisions relating to prepaid calling arrangements; and
- revises the conditions under which a dealer of communications services who is obligated to collect and remit a local communications services tax may be held liable for taxes and associated interest for assigning a service address to an incorrect local taxing jurisdiction.

- B. **Amendments:**

None.



774432

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2012	.	
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	.	

The Committee on Budget Subcommittee on Finance and Tax
(Margolis) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. (1) The Communications Services Tax Working
Group is created and housed for administrative purposes within
the Department of Revenue.

(2) The working group shall consist of 11 members as
follows:

(a) The executive director of the Department of Revenue, or
his or her designee, who shall serve as chairperson and as a
nonvoting member and who shall appoint the remaining members.



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13 (b) Six members, including, but not limited to,
14 representatives of dealers, retailers, video service providers,
15 direct-to-home satellite service providers, local phone service
16 providers, and wireless providers who provide prepaid services.

17 (c) Two representatives of counties.

18 (d) Two representatives of municipalities.

19 (3) Members of the working group are not entitled to
20 receive reimbursement for per diem and travel expenses other
21 than reimbursement provided by their respective group, office,
22 or agency.

23 (4) The working group shall:

24 (a) Review national and state tax policies relating to the
25 communications industry;

26 (b) Review the amount of tax revenue that has been
27 generated by the communications services taxes imposed or
28 administered pursuant to chapter 202, Florida Statutes, and that
29 is expected to be generated in the future, and the extent to
30 which this revenue has been relied on to secure bonded
31 indebtedness;

32 (c) Review the state's ability to design tax laws that are
33 efficient and fairly administered, including whether the
34 applicability of the tax laws is reasonably clear to
35 communications service providers, retailers, customers, local
36 governments, and state administrators. This review shall take
37 into consideration the diverse and evolutionary nature of
38 communication technology and the resulting services,
39 particularly as it applies to prepaid wireless services;

40 (d) Review the administrative burdens imposed on
41 communications services providers, retailers, local governments,



774432

42 and the department under the current tax structure;

43 (e) Identify options for reducing the administrative
44 burdens and for developing a unified tax or reducing the high
45 degree of local communications services tax rate variability,
46 including the feasibility of distributing revenues based on
47 formulas; and

48 (f) Identify options that remove competitive advantages due
49 to taxation for competing, functionally equivalent
50 communications services.

51 (5) The working group shall prepare a report that addresses
52 each issue specified in subsection (4). The group shall submit
53 the report to the Governor, the President of the Senate, and the
54 Speaker of the House of Representatives by February 1, 2013. The
55 working group shall hold meetings as frequently as deemed
56 necessary by the chair to produce the report.

57 Section 2. This act shall take effect upon becoming a law.

58
59 ===== T I T L E A M E N D M E N T =====

60 And the title is amended as follows:

61 Delete everything before the enacting clause
62 and insert:

63 A bill to be entitled
64 An act relating to communications services tax;
65 creating the Communications Services Tax Working
66 Group; housing the working group in the Department of
67 Revenue for administrative purposes; providing for
68 membership; limiting the reimbursement of members for
69 per diem and travel expenses; providing issues that
70 the working group will study; requiring the working



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group to hold meetings; providing for a report to the
Governor and Legislature by a certain date; providing
an effective date.



642442

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/24/2012	.	
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	.	
	.	

The Committee on Budget Subcommittee on Finance and Tax
(Margolis) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 202.105, Florida
Statutes, is amended to read:

202.105 Legislative findings and intent.—

(1) It is declared to be a specific legislative finding
that the creation of this chapter fulfills important state
interests by reforming the tax laws to provide a fair,
efficient, and uniform method for taxing communications services
sold in this state. This chapter is essential to the continued
economic vitality of this increasingly important industry



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13 because it restructures state and local taxes and fees to
14 account for the impact of federal legislation, industry
15 deregulation, and the multitude of convergence of service
16 offerings that is now taking place among providers offering
17 functionally equivalent communications services in today's
18 marketplace. This chapter promotes the increased competition
19 that accompanies deregulation by embracing a competitively
20 neutral tax policy that will free consumers to choose a provider
21 based on tax-neutral considerations. This chapter further spurs
22 new competition by simplifying an extremely complicated state
23 and local tax and fee system. Simplification will lower the cost
24 of collecting taxes and fees, increase service availability, and
25 place downward pressure on price. Newfound administrative
26 efficiency is demonstrated by a reduction in the number of
27 returns that a provider must file each month. By restructuring
28 separate taxes and fees into a revenue-neutral communications
29 services tax centrally administered by the department, this
30 chapter will ensure that the growth of the industry is
31 unimpaired by excessive governmental regulation. The tax imposed
32 pursuant to this chapter is a replacement for taxes and fees
33 previously imposed and is not a new tax. The taxes imposed and
34 administered pursuant to this chapter are of general application
35 and are imposed in a uniform, consistent, and nondiscriminatory
36 manner.

37 Section 2. Section 202.11, Florida Statutes, is amended to
38 read:

39 202.11 Definitions.—As used in this chapter, the term:

40 (1) ~~"Cable service" means the transmission of video, audio,~~
41 ~~or other programming service to purchasers, and the purchaser~~



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42 ~~interaction, if any, required for the selection or use of any~~
43 ~~such programming service, regardless of whether the programming~~
44 ~~is transmitted over facilities owned or operated by the cable~~
45 ~~service provider or over facilities owned or operated by one or~~
46 ~~more other dealers of communications services. The term includes~~
47 ~~point-to-point and point-to-multipoint distribution services by~~
48 ~~which programming is transmitted or broadcast by microwave or~~
49 ~~other equipment directly to the purchaser's premises, but does~~
50 ~~not include direct-to-home satellite service. The term includes~~
51 ~~basic, extended, premium, pay per view, digital, and music~~
52 ~~services.~~

53 (1)~~(2)~~ "Communications services" means the transmission,
54 conveyance, or routing of voice, data, audio, video, or any
55 other information or signals, including video ~~cable~~ services, to
56 a point, or between or among points, by or through any
57 electronic, radio, satellite, cable, optical, microwave, or
58 other medium or method now in existence or hereafter devised,
59 regardless of the protocol used for such transmission or
60 conveyance. The term includes such transmission, conveyance, or
61 routing in which computer processing applications are used to
62 act on the form, code, or protocol of the content for purposes
63 of transmission, conveyance, or routing without regard to
64 whether such service is referred to as voice-over-Internet-
65 protocol services or is classified by the Federal Communications
66 Commission as enhanced or value-added. The term does not
67 include:

68 (a) Information services.

69 (b) Installation or maintenance of wiring or equipment on a
70 customer's premises.



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- 71 (c) The sale or rental of tangible personal property.
- 72 (d) The sale of advertising, including, but not limited to,
73 directory advertising.
- 74 (e) Bad check charges.
- 75 (f) Late payment charges.
- 76 (g) Billing and collection services.
- 77 (h) Internet access service, electronic mail service,
78 electronic bulletin board service, or similar online computer
79 services.
- 80 ~~(2)~~(3) "Dealer" means a person registered with the
81 department as a provider of communications services in this
82 state.
- 83 ~~(3)~~(4) "Department" means the Department of Revenue.
- 84 ~~(4)~~(5) "Direct-to-home satellite service" has the meaning
85 ascribed in the Communications Act of 1934, 47 U.S.C. s. 303(v).
- 86 ~~(5)~~(6) "Information service" means the offering of a
87 capability for generating, acquiring, storing, transforming,
88 processing, retrieving, using, or making available information
89 via communications services, including, but not limited to,
90 electronic publishing, web-hosting service, and end-user 900
91 number service. The term does not include ~~any video, audio, or~~
92 ~~other programming service that uses point-to-multipoint~~
93 ~~distribution by which programming is delivered, transmitted, or~~
94 ~~broadcast by any means, including any interaction that may be~~
95 ~~necessary for selecting and using the service, regardless of~~
96 ~~whether the programming is delivered, transmitted, or broadcast~~
97 ~~over facilities owned or operated by the seller or another, or~~
98 ~~whether denominated as cable service or as basic, extended,~~
99 ~~premium, pay-per-view, digital, music, or two-way cable service.~~



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100 (6) "Internet access service" has the same meaning as
101 ascribed to the term "Internet access" by s. 1105(5) of the
102 Internet Tax Freedom Act, 47 U.S.C. s. 151 note, as amended by
103 Pub. L. No. 110-108.

104 (7) "Mobile communications service" means ~~commercial~~ mobile
105 ~~radio~~ service, as defined in 47 C.F.R. s. 20.3 as in effect on
106 June 1, 1999. The term does not include air-ground
107 radiotelephone service as defined in 47 C.F.R. s. 22.99 as in
108 effect on June 1, 1999.

109 (8) "Person" has the meaning ascribed in s. 212.02.

110 (9) "Prepaid calling arrangement" means the separately
111 stated retail sale by advance payment of communications services
112 that consist exclusively of telephone calls originated by using
113 an access number, authorization code, or other means that may be
114 manually, electronically, or otherwise entered, and that are
115 sold in predetermined units or dollars of which the number
116 declines with use in a known amount.

117 (10) "Purchaser" means the person paying for or obligated
118 to pay for communications services.

119 (11) "Retail sale" means the sale of communications
120 services for any purpose other than for resale or for use as a
121 component part of or for integration into communications
122 services to be resold in the ordinary course of business.
123 However, any sale for resale must comply with s. 202.16(2) and
124 the rules adopted thereunder.

125 (12) "Sale" means the provision of communications services
126 for a consideration.

127 (13) "Sales price" means the total amount charged in money
128 or other consideration by a dealer for the sale of the right or



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129 privilege of using communications services in this state,
130 including any property or other service, not described in
131 paragraph (a), which is services that are part of the sale and
132 for which the charge is not separately itemized on a customer's
133 bill or separately allocated under subparagraph (b)8. The sales
134 price of communications services may ~~shall~~ not be reduced by any
135 separately identified components of the charge which ~~that~~
136 constitute expenses of the dealer, including, but not limited
137 to, sales taxes on goods or services purchased by the dealer,
138 property taxes, taxes measured by net income, and universal-
139 service fund fees.

140 (a) The sales price of communications services includes
141 ~~shall include~~, whether or not separately stated, charges for any
142 of the following:

- 143 1. The connection, movement, change, or termination of
144 communications services.
- 145 2. The detailed billing of communications services.
- 146 3. The sale of directory listings in connection with a
147 communications service.
- 148 4. Central office and custom calling features.
- 149 5. Voice mail and other messaging service.
- 150 6. Directory assistance.
- 151 7. The service of sending or receiving a document commonly
152 referred to as a facsimile or "fax," except when performed
153 during the course of providing professional or advertising
154 services.

155 (b) The sales price of communications services does not
156 include charges for any of the following:

- 157 1. An ~~Any~~ excise tax, sales tax, or similar tax levied by



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158 the United States or any state or local government on the
159 purchase, sale, use, or consumption of any communications
160 service, including, but not limited to, a ~~any~~ tax imposed under
161 this chapter or chapter 203 which is permitted or required to be
162 added to the sales price of such service, if the tax is stated
163 separately.

164 2. A ~~Any~~ fee or assessment levied by the United States or
165 any state or local government, including, but not limited to,
166 regulatory fees and emergency telephone surcharges, which must
167 ~~is required to~~ be added to the price of the ~~such~~ service if the
168 fee or assessment is separately stated.

169 3. Communications services paid for by inserting coins into
170 coin-operated communications devices available to the public.

171 4. The sale or recharge of a prepaid calling arrangement.

172 5. The provision of air-to-ground communications services,
173 defined as a radio service provided to a purchaser ~~purchasers~~
174 while on board an aircraft.

175 6. A dealer's internal use of communications services in
176 connection with its business of providing communications
177 services.

178 7. Charges for property or other services that are not part
179 of the sale of communications services, if such charges are
180 stated separately from the charges for communications services.

181 8. ~~To the extent required by federal law,~~ Charges for goods
182 and services that are exempt from tax under this chapter,
183 including Internet access services but excluding any item
184 described in paragraph (a), that ~~which~~ are not separately
185 itemized on a customer's bill, but that ~~which~~ can be reasonably
186 identified from the selling dealer's books and records kept in



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187 the regular course of business. The dealer may support the
188 allocation of charges with books and records kept in the regular
189 course of business covering the dealer's entire service area,
190 including territories outside this state.

191 (14) "Service address" means:

192 (a) Except as otherwise provided in this section:

193 1. The location of the communications equipment from which
194 communications services originate or at which communications
195 services are received by the customer;

196 2. In the case of a communications service paid through a
197 credit or payment mechanism that does not relate to a service
198 address, such as a bank, travel, debit, or credit card, and in
199 the case of third-number and calling-card calls, the term
200 "service address" means the address of the central office, as
201 determined by the area code and the first three digits of the
202 seven-digit originating telephone number; or

203 3. If the location of the equipment described in
204 subparagraph 1. is not known and subparagraph 2. is
205 inapplicable, the term "service address" means the location of
206 the customer's primary use of the communications service. For
207 purposes of this subparagraph, the location of the customer's
208 primary use of a communications service is the residential
209 street address or the business street address of the customer.

210 (b) In the case of video ~~cable~~ services and direct-to-home
211 satellite services, the location where the customer receives the
212 services in this state.

213 (c) In the case of mobile communications services, the
214 customer's place of primary use.

215 (15) "Unbundled network element" means a network element,



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216 as defined in 47 U.S.C. s. 153(29), to which access is provided
217 on an unbundled basis pursuant to 47 U.S.C. s. 251(c)(3).

218 (16) "Private communications service" means a
219 communications service that entitles the subscriber or user to
220 exclusive or priority use of a communications channel or group
221 of channels between or among channel termination points,
222 regardless of the manner in which such channel or channels are
223 connected, and includes switching capacity, extension lines,
224 stations, and any other associated services that ~~which~~ are
225 provided in connection with the use of such channel or channels.

226 (17) (a) "Customer" means:

227 1. The person or entity that contracts with the home
228 service provider for mobile communications services; or

229 2. If the end user of mobile communications services is not
230 the contracting party, the end user of the mobile communications
231 service. This subparagraph only applies for the purpose of
232 determining the place of primary use.

233 (b) "Customer" does not include:

234 1. A reseller of mobile communications services; or

235 2. A serving carrier under an agreement to serve the
236 customer outside the home service provider's licensed service
237 area.

238 (18) "Enhanced zip code" means a United States postal zip
239 code of 9 or more digits.

240 (19) "Home service provider" means the facilities-based
241 carrier or reseller with which the customer contracts for the
242 provision of mobile communications services.

243 (20) "Licensed service area" means the geographic area in
244 which the home service provider is authorized by law or contract



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245 to provide mobile communications service to the customer.

246 (21) "Place of primary use" means the street address
247 representative of where the customer's use of the mobile
248 communications service primarily occurs, which must be:

249 (a) The residential street address or the primary business
250 street address of the customer; and

251 (b) Within the licensed service area of the home service
252 provider.

253 (22) (a) "Reseller" means a provider who purchases
254 communications services from another communications service
255 provider and then resells, uses as a component part of, or
256 integrates the purchased services into a mobile communications
257 service.

258 (b) The term "Reseller" does not include a serving carrier
259 with which a home service provider arranges for the services to
260 its customers outside the home service provider's licensed
261 service area.

262 (23) "Serving carrier" means a facilities-based carrier
263 providing mobile communications service to a customer outside a
264 home service provider's or reseller's licensed service area.

265 (24) "Video service" means the transmission of video,
266 audio, or other programming service to a purchaser, and the
267 purchaser interaction, if any, required for the selection or use
268 of a programming service, regardless of whether the programming
269 is transmitted over facilities owned or operated by the video
270 service provider or over facilities owned or operated by another
271 dealer of communications services. The term includes point-to-
272 point and point-to-multipoint distribution services through
273 which programming is transmitted or broadcast by microwave or



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274 other equipment directly to the purchaser's premises, but does
275 not include direct-to-home satellite service. The term includes
276 basic, extended, premium, pay-per-view, digital video, two-way
277 cable, and music services ~~has the same meaning as that provided~~
278 ~~in s. 610.103.~~

279 Section 3. Subsection (1) of section 202.125, Florida
280 Statutes, is amended to read:

281 202.125 Sales of communications services; specified
282 exemptions.—

283 (1) The separately stated sales price of communications
284 services sold to residential households is exempt from the tax
285 imposed by s. 202.12 and s. 203.01(1)(b)3. This exemption does
286 not apply to any residence that constitutes all or part of a
287 transient public lodging establishment as defined in chapter
288 509, any mobile communications service, any video ~~cable~~ service,
289 or any direct-to-home satellite service.

290 Section 4. Paragraph (a) of subsection (2) of section
291 202.16, Florida Statutes, is amended to read:

292 202.16 Payment.—The taxes imposed or administered under
293 this chapter and chapter 203 shall be collected from all dealers
294 of taxable communications services on the sale at retail in this
295 state of communications services taxable under this chapter and
296 chapter 203. The full amount of the taxes on a credit sale,
297 installment sale, or sale made on any kind of deferred payment
298 plan is due at the moment of the transaction in the same manner
299 as a cash sale.

300 (2)(a) A sale of communications services that are used as a
301 component part of or integrated into a communications service or
302 prepaid calling arrangement for resale, including, but not



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303 limited to, carrier-access charges, interconnection charges paid
304 by providers of mobile communication services or other
305 communication services, charges paid by a video cable service
306 provider providers for the purchase of video programming or the
307 transmission of video or other programming by another dealer of
308 communications services, charges for the sale of unbundled
309 network elements, and any other intercompany charges for the use
310 of facilities for providing communications services for resale,
311 must be made in compliance with the rules of the department. A
312 Any person who makes a sale for resale which is not in
313 compliance with these rules is liable for any tax, penalty, and
314 interest due for failing to comply, to be calculated pursuant to
315 s. 202.28(2) (a).

316 Section 5. Paragraph (c) of subsection (3) of section
317 202.18, Florida Statutes, is amended to read:

318 202.18 Allocation and disposition of tax proceeds.—The
319 proceeds of the communications services taxes remitted under
320 this chapter shall be treated as follows:

321 (3)

322 (c)1. Except as otherwise provided in this paragraph,
323 proceeds of the taxes levied pursuant to s. 202.19, less amounts
324 deducted for costs of administration in accordance with
325 paragraph (b), shall be distributed monthly to the appropriate
326 jurisdictions. The proceeds of taxes imposed pursuant to s.
327 202.19(5) shall be distributed in the same manner as
328 discretionary surtaxes are distributed, in accordance with ss.
329 212.054 and 212.055.

330 2. The department shall make any adjustments to the
331 distributions pursuant to this section which are necessary to



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332 reflect the proper amounts due to individual jurisdictions or
333 trust funds. In the event that the department adjusts amounts
334 due to reflect a correction in the situsing of a customer, such
335 adjustment shall be limited to the amount of tax actually
336 collected from such customer by the dealer of communication
337 services.

338 3.a. ~~Notwithstanding the time period specified in s.~~
339 ~~202.22(5)~~, Adjustments in distributions which are necessary to
340 correct misallocations between jurisdictions shall be governed
341 by this subparagraph. If the department determines that
342 misallocations between jurisdictions occurred, it shall provide
343 written notice of such determination to all affected
344 jurisdictions. The notice shall include the amount of the
345 misallocations, the basis upon which the determination was made,
346 data supporting the determination, and the identity of each
347 affected jurisdiction. The notice shall also inform all affected
348 jurisdictions of their authority to enter into a written
349 agreement establishing a method of adjustment as described in
350 sub-subparagraph c.

351 b. An adjustment affecting a distribution to a jurisdiction
352 which is less than 90 percent of the average monthly
353 distribution to that jurisdiction for the 6 months immediately
354 preceding the department's determination, as reported by all
355 communications services dealers, shall be made in the month
356 immediately following the department's determination that
357 misallocations occurred.

358 c. If an adjustment affecting a distribution to a
359 jurisdiction equals or exceeds 90 percent of the average monthly
360 distribution to that jurisdiction for the 6 months immediately



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361 preceding the department's determination, as reported by all
362 communications services dealers, the affected jurisdictions may
363 enter into a written agreement establishing a method of
364 adjustment. If the agreement establishing a method of adjustment
365 provides for payments of local communications services tax
366 monthly distributions, the amount of any such payment agreed to
367 may not exceed the local communications services tax monthly
368 distributions available to the jurisdiction that was allocated
369 amounts in excess of those to which it was entitled. If affected
370 jurisdictions execute a written agreement specifying a method of
371 adjustment, a copy of the written agreement shall be provided to
372 the department no later than the first day of the month
373 following 90 days after the date the department transmits notice
374 of the misallocation. If the department does not receive a copy
375 of the written agreement within the specified time period, an
376 adjustment affecting a distribution to a jurisdiction made
377 pursuant to this sub-subparagraph shall be prorated over a time
378 period that equals the time period over which the misallocations
379 occurred.

380 Section 6. Subsections (5) and (6) of section 202.22,
381 Florida Statutes, are amended to read:

382 202.22 Determination of local tax situs.—

383 (5) If a dealer of communications services does not use one
384 or more of the methods specified in subsection (1) for
385 determining the local taxing jurisdiction in which one or more
386 service addresses are ~~a service address is~~ located and:

387 (a) The dealer's failure to use one or more of such methods
388 results in a net aggregate underpayment of all taxes levied
389 pursuant to s. 202.19 with respect to one or more tax periods



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390 that are being examined by the department under the provisions
391 of this chapter; and

392 (b) The department has determined the misallocations
393 between jurisdictions for all taxes levied pursuant to s. 202.19
394 and collected by the dealer with respect to any tax period being
395 examined by the department; then,

396
397 the dealer of communications services may be held liable to the
398 department for the net aggregate underpayment of any tax, and
399 for including interest and penalties attributable to the net
400 aggregate underpayment of tax, which is due as a result of
401 assigning one or more the service addresses address to an
402 incorrect local taxing jurisdiction. Subject to the provisions
403 of ss. 202.22(8), 202.34, and 202.35(3) However, the dealer of
404 communications services is not liable for any tax, interest, or
405 penalty under this subsection unless the department has
406 determined the net aggregate underpayment of tax for any tax
407 period that is being examined, taking into account all
408 underpayments and overpayments for such period or periods to the
409 extent that such amount was collected and remitted by the dealer
410 of communications services with respect to a tax imposed by
411 another local taxing jurisdiction. Upon determining that an
412 amount was collected and remitted by a dealer of communications
413 services with respect to a tax imposed by another local taxing
414 jurisdiction, the department shall adjust the respective amounts
415 of the proceeds paid to each such taxing jurisdiction under s.
416 202.18 in the month immediately following such determination.

417 (6) (a) Pursuant to rules adopted by the department, each
418 dealer of communications services must notify the department of



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419 the methods it intends to employ for determining the local
420 taxing jurisdiction in which service addresses are located.

421 (b) Notwithstanding s. 202.28, if a dealer of
422 communications services:

423 1. Employs a method of assigning service addresses other
424 than as set forth in paragraph (1) (a), paragraph (1) (b), or
425 paragraph (1) (c), the deduction allowed to the dealer of
426 communications services as compensation under s. 202.28 shall be
427 0.25 percent of that portion of the tax due and accounted for
428 and remitted to the department which is attributable to such
429 method of assigning service addresses other than as set forth in
430 paragraph (1) (a), paragraph (1) (b), or paragraph (1) (c).

431 2. Employs a method of assigning service addresses as set
432 forth in paragraph (1) (a), paragraph (1) (b), or paragraph
433 (1) (c), the department may not deny the deduction allowed to the
434 dealer of communications services as compensation allowed under
435 s. 202.28 because the dealer assigned one or more service
436 addresses to an incorrect local taxing jurisdiction.

437 Section 7. Subsection (3) is added to section 202.231,
438 Florida Statutes, to read:

439 202.231 Provision of information to local taxing
440 jurisdictions.—

441 (3) The gross taxable sales and the total net amount
442 transferred to the jurisdiction, showing the net taxes remitted
443 by dealers less the administrative fees deducted by the
444 department contained in the monthly reports required by this
445 section, shall be aggregated on a jurisdiction-by-jurisdiction
446 basis, and the aggregate jurisdiction-by-jurisdiction
447 information shall be made available by the department to the



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448 public through the department's website for each fiscal year
449 this chapter has been in effect.

450 Section 8. Paragraphs (a) and (c) of subsection (2) of
451 section 202.24, Florida Statutes, are amended to read:

452 202.24 Limitations on local taxes and fees imposed on
453 dealers of communications services.—

454 (2) (a) Except as provided in paragraph (c), each public
455 body is prohibited from:

456 1. Levying on or collecting from dealers or purchasers of
457 communications services any tax, charge, fee, or other
458 imposition on or with respect to the provision or purchase of
459 communications services.

460 2. Requiring any dealer of communications services to enter
461 into or extend the term of a franchise or other agreement that
462 requires the payment of a tax, charge, fee, or other imposition.

463 3. Adopting or enforcing any provision of any ordinance or
464 agreement to the extent that such provision obligates a dealer
465 of communications services to charge, collect, or pay to the
466 public body a tax, charge, fee, or other imposition.

467
468 Municipalities and counties may not negotiate those terms and
469 conditions related to franchise fees or the definition of gross
470 revenues or other definitions or methodologies related to the
471 payment or assessment of franchise fees on providers of ~~cable or~~
472 video services.

473 (c) This subsection does not apply to:

474 1. Local communications services taxes levied under this
475 chapter.

476 2. Ad valorem taxes levied pursuant to chapter 200.



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- 477 3. Business taxes levied under chapter 205.
- 478 4. "911" service charges levied under chapter 365.
- 479 5. Amounts charged for the rental or other use of property
480 owned by a public body which is not in the public rights-of-way
481 to a dealer of communications services for any purpose,
482 including, but not limited to, the placement or attachment of
483 equipment used in the provision of communications services.
- 484 6. Permit fees of general applicability which are not
485 related to placing or maintaining facilities in or on public
486 roads or rights-of-way.
- 487 7. Permit fees related to placing or maintaining facilities
488 in or on public roads or rights-of-way pursuant to s. 337.401.
- 489 8. Any in-kind requirements, institutional networks, or
490 contributions for, or in support of, the use or construction of
491 public, educational, or governmental access facilities allowed
492 under federal law and imposed on providers of ~~cable or~~ video
493 service pursuant to any existing ordinance or an existing
494 franchise agreement granted by each municipality or county,
495 under which ordinance or franchise agreement service is provided
496 before ~~prior to~~ July 1, 2007, or as permitted under chapter 610.
497 ~~Nothing in~~ This subparagraph does not ~~shall~~ prohibit ~~the ability~~
498 ~~of~~ providers of ~~cable or~~ video service from recovering the ~~to~~
499 ~~recover such~~ expenses as allowed under federal law.
- 500 9. Special assessments and impact fees.
- 501 10. Pole attachment fees that are charged by a local
502 government for attachments to utility poles owned by the local
503 government.
- 504 11. Utility service fees or other similar user fees for
505 utility services.



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506 12. Any other generally applicable tax, fee, charge, or
507 imposition authorized by general law on July 1, 2000, which is
508 not specifically prohibited by this subsection or included as a
509 replaced revenue source in s. 202.20.

510 Section 9. Paragraph (a) of subsection (1) of section
511 203.01, Florida Statutes, is amended to read:

512 203.01 Tax on gross receipts for utility and communications
513 services.—

514 (1)(a)1. A tax is imposed on gross receipts from utility
515 services that are delivered to a retail consumer in this state.
516 The ~~Such~~ tax shall be levied as provided in paragraphs (b)-(j).

517 2. A tax is levied on communications services as defined in
518 s. 202.11(1) ~~202.11(2)~~. The ~~Such~~ tax shall be applied to the
519 same services and transactions as are subject to taxation under
520 chapter 202, and to communications services that are subject to
521 the exemption provided in s. 202.125(1). The ~~Such~~ tax shall be
522 applied to the sales price of communications services when sold
523 at retail, as the ~~such~~ terms are defined in s. 202.11, shall be
524 due and payable at the same time as the taxes imposed pursuant
525 to chapter 202, and shall be administered and collected pursuant
526 to the provisions of chapter 202.

527 Section 10. Section 624.105, Florida Statutes, is amended
528 to read:

529 624.105 Waiver of customer liability.—Any regulated company
530 as defined in s. 350.111, any electric utility as defined in s.
531 366.02(2), any utility as defined in s. 367.021(12) or s.
532 367.022(2) and (7), and any provider of communications services
533 as defined in s. 202.11(1) ~~202.11(2)~~ may charge for and include
534 an optional waiver of liability provision in their customer



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535 contracts under which the entity agrees to waive all or a
536 portion of the customer's liability for service from the entity
537 for a defined period in the event of the customer's call to
538 active military service, death, disability, involuntary
539 unemployment, qualification for family leave, or similar
540 qualifying event or condition. Such provisions may not be
541 effective in the customer's contract with the entity unless
542 affirmatively elected by the customer. ~~No~~ Such provision does
543 not shall constitute insurance if so long as the provision is a
544 contract between the entity and its customer.

545 Section 11. The following changes made in this act are
546 intended to be remedial in nature and apply retroactively, but
547 do not provide a basis for an assessment of any tax not paid or
548 create a right to a refund or credit of any tax paid before the
549 general effective date of this act:

550 (1) The changes made in section 2 of this act to subsection
551 (13) of s. 202.11, Florida Statutes.

552 (2) The changes made in section 6 of this act to s. 202.22,
553 Florida Statutes.

554 Section 12. This act shall take effect July 1, 2012.

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

557 And the title is amended as follows:

558 Delete everything before the enacting clause
559 and insert:

560 A bill to be entitled
561 An act relating to communications services taxes;
562 amending s. 202.105, F.S.; revising legislative
563 intent; amending s. 202.11, F.S.; modifying



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564 definitions; removing the definition of the term
565 "cable service"; adding the definitions of the term
566 "Internet access service"; revising the definitions of
567 the terms "communication services," "information
568 service," "sales price," "service address," and "video
569 service"; amending ss. 202.125, 202.16, and 202.24,
570 F.S.; conforming provisions to changes in terminology;
571 amending s. 202.18, F.S.; removing a cross-reference
572 to conform; amending s. 202.22, F.S.; revising
573 provisions relating to a communications services
574 dealer's liability for tax underpayments that result
575 from the incorrect assignment of service addresses to
576 local taxing jurisdictions and providing requirements
577 and conditions with respect thereto; prohibiting the
578 department from denying a dealer of communications
579 services a deduction of a specified amount as a
580 collection allowance under certain circumstances;
581 amending s. 202.231, F.S.; requiring the Department of
582 Revenue to aggregate monthly and make available to the
583 public on a jurisdiction-by-jurisdiction basis certain
584 sales and net tax information; amending ss. 203.01 and
585 624.105, F.S.; conforming cross-references; providing
586 for retroactive effect of certain provisions of the
587 act; providing an effective date.

By the Committees on Community Affairs; and Communications,
Energy, and Public Utilities; and Senators Bogdanoff and Lynn

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1 A bill to be entitled
2 An act relating to communications services taxes;
3 amending s. 202.105, F.S.; revising legislative
4 intent; amending s. 202.11, F.S.; modifying
5 definitions; removing the definition of the term
6 "cable service"; adding definitions for the terms
7 "digital good," "digital service," and "Internet
8 access service"; revising the definitions of the terms
9 "communication services," "information service,"
10 "mobile communication service," "sales price,"
11 "service address," and "video service"; amending ss.
12 202.125, 202.16, 202.20, and 202.24, F.S.; conforming
13 provisions to changes in terminology; amending s.
14 202.18, F.S.; removing a cross-reference to conform;
15 amending s. 202.195, F.S.; clarifying provisions
16 exempting from the public records law certain
17 proprietary confidential business information held by
18 a local governmental entity for the purpose of
19 assessing the local communications services tax;
20 amending s. 202.22, F.S.; revising provisions relating
21 to a communications services dealer's liability for
22 tax underpayments that result from the incorrect
23 assignment of service addresses to local taxing
24 jurisdictions and providing requirements and
25 conditions with respect thereto; prohibiting the
26 department from denying a dealer of communications
27 services a deduction of a specified amount as a
28 collection allowance under certain circumstances;
29 amending s. 202.231, F.S.; requiring the Department of

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30 Revenue to aggregate monthly and make available to the
31 public on a jurisdiction-by-jurisdiction basis certain
32 sales and net tax information; amending s. 202.26,
33 F.S.; conforming a cross-reference; amending ss.
34 203.01, 610.118, and 624.105, F.S.; conforming cross-
35 references; providing for certain retroactive effect;
36 providing an effective date.
37
38 Be It Enacted by the Legislature of the State of Florida:
39
40 Section 1. Subsection (1) of section 202.105, Florida
41 Statutes, is amended to read:
42 202.105 Legislative findings and intent.—
43 (1) It is declared to be a specific legislative finding
44 that the creation of this chapter fulfills important state
45 interests by reforming the tax laws to provide a fair,
46 efficient, and uniform method for taxing communications services
47 sold in this state. This chapter is essential to the continued
48 economic vitality of this increasingly important industry
49 because it restructures state and local taxes and fees to
50 account for the impact of federal legislation, industry
51 deregulation, and the ~~multitude of convergence of service~~
52 ~~offerings that is now taking place among providers offering~~
53 functionally equivalent communications services in today's
54 marketplace. This chapter promotes the increased competition
55 that accompanies deregulation by embracing a competitively
56 neutral tax policy that will free consumers to choose a provider
57 based on tax-neutral considerations. This chapter further spurs
58 new competition by simplifying an extremely complicated state

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 59 and local tax and fee system. Simplification will lower the cost
 60 of collecting taxes and fees, increase service availability, and
 61 place downward pressure on price. Newfound administrative
 62 efficiency is demonstrated by a reduction in the number of
 63 returns that a provider must file each month. By restructuring
 64 separate taxes and fees into a revenue-neutral communications
 65 services tax centrally administered by the department, this
 66 chapter will ensure that the growth of the industry is
 67 unimpaired by excessive governmental regulation. The tax imposed
 68 pursuant to this chapter is a replacement for taxes and fees
 69 previously imposed and is not a new tax. The taxes imposed and
 70 administered pursuant to this chapter are of general application
 71 and are imposed in a uniform, consistent, and nondiscriminatory
 72 manner.

73 Section 2. Section 202.11, Florida Statutes, is amended to
 74 read:

75 202.11 Definitions.—As used in this chapter, the term:

76 ~~(1) "Cable service" means the transmission of video, audio,~~
 77 ~~or other programming service to purchasers, and the purchaser~~
 78 ~~interaction, if any, required for the selection or use of any~~
 79 ~~such programming service, regardless of whether the programming~~
 80 ~~is transmitted over facilities owned or operated by the cable~~
 81 ~~service provider or over facilities owned or operated by one or~~
 82 ~~more other dealers of communications services. The term includes~~
 83 ~~point-to-point and point-to-multipoint distribution services by~~
 84 ~~which programming is transmitted or broadcast by microwave or~~
 85 ~~other equipment directly to the purchaser's premises, but does~~
 86 ~~not include direct-to-home satellite service. The term includes~~
 87 ~~basic, extended, premium, pay-per-view, digital, and music~~

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 88 ~~services.~~
 89 (1)(2) "Communications services" means the transmission,
 90 conveyance, or routing of voice, data, audio, video, or any
 91 other information or signals, including video ~~cable~~ services, to
 92 a point, or between or among points, by or through any
 93 electronic, radio, satellite, cable, optical, microwave, or
 94 other medium or method now in existence or hereafter devised,
 95 regardless of the protocol used for such transmission or
 96 conveyance. The term includes such transmission, conveyance, or
 97 routing in which computer processing applications are used to
 98 act on the form, code, or protocol of the content for purposes
 99 of transmission, conveyance, or routing without regard to
 100 whether such service is referred to as voice-over-Internet-
 101 protocol services or is classified by the Federal Communications
 102 Commission as enhanced or value-added. The term does not
 103 include:
 104 (a) Information services.
 105 (b) Installation or maintenance of wiring or equipment on a
 106 customer's premises.
 107 (c) The sale or rental of tangible personal property.
 108 (d) The sale of advertising, including, but not limited to,
 109 directory advertising.
 110 (e) Bad check charges.
 111 (f) Late payment charges.
 112 (g) Billing and collection services.
 113 (h) Internet access service, electronic mail service,
 114 electronic bulletin board service, or similar online computer
 115 services.
 116 (i) Digital goods.

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117 (j) Digital services.

118 (2)(3) "Dealer" means a person registered with the
119 department as a provider of communications services in this
120 state.

121 (3)(4) "Department" means the Department of Revenue.

122 (4) "Digital good" means any downloaded good or product
123 that is delivered or transferred by means other than tangible
124 storage media, including downloaded games, software, music, or
125 other digital content. The term does not include video service.

126 (5) "Digital service" means any service, other than video
127 service, which is provided electronically, including remotely
128 provided access to or use of software or another digital good,
129 and also includes the following services, if they are provided
130 remotely: monitoring, security, distance learning, energy
131 management, medical diagnostic, mechanical diagnostic, and
132 vehicle tracking services. If a digital service is bundled for
133 sale with the transmission, conveyance, or routing of any
134 information or signals, the bundled service is a digital service
135 unless the tax imposed under this chapter and chapter 203 has
136 not been paid with respect to such transmission, conveyance, or
137 routing.

138 (6)(5) "Direct-to-home satellite service" has the meaning
139 ascribed in the Communications Act of 1934, 47 U.S.C. s. 303(v).

140 (7)(6) "Information service" means the offering of a
141 capability for generating, acquiring, storing, transforming,
142 processing, retrieving, using, or making available information
143 via communications services, including, but not limited to,
144 electronic publishing, web-hosting service, and end-user 900
145 number service. The term does not include ~~any video, audio, or~~

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146 ~~other programming service that uses point-to-multipoint~~
147 ~~distribution by which programming is delivered, transmitted, or~~
148 ~~broadcast by any means, including any interaction that may be~~
149 ~~necessary for selecting and using the service, regardless of~~
150 ~~whether the programming is delivered, transmitted, or broadcast~~
151 ~~over facilities owned or operated by the seller or another, or~~
152 ~~whether denominated as cable service or as basic, extended,~~
153 ~~premium, pay-per-view, digital, music, or two-way cable service.~~

154 (8) "Internet access service" has the same meaning as
155 ascribed to the term "Internet access" by s. 1105(5) of the
156 Internet Tax Freedom Act, 47 U.S.C. s. 151 note, as amended by
157 Pub. L. No. 110-108.

158 (9)(7) "Mobile communications service" means ~~commercial~~
159 ~~mobile radio~~ service, as defined in 47 C.F.R. s. 20.3 as in
160 effect on June 1, 1999. The term does not include air-ground
161 radiotelephone service as defined in 47 C.F.R. s. 22.99 as in
162 effect on June 1, 1999.

163 (10)(8) "Person" has the meaning ascribed in s. 212.02.

164 (11)(9) "Prepaid calling arrangement" means the separately
165 stated retail sale by advance payment of communications services
166 that consist exclusively of telephone calls originated by using
167 an access number, authorization code, or other means that may be
168 manually, electronically, or otherwise entered, and that are
169 sold in predetermined units or dollars of which the number
170 declines with use in a known amount.

171 (12)(10) "Purchaser" means the person paying for or
172 obligated to pay for communications services.

173 (13)(11) "Retail sale" means the sale of communications
174 services for any purpose other than for resale or for use as a

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175 component part of or for integration into communications
 176 services to be resold in the ordinary course of business.
 177 However, any sale for resale must comply with s. 202.16(2) and
 178 the rules adopted thereunder.

179 ~~(14)(12)~~ "Sale" means the provision of communications
 180 services for a consideration.

181 ~~(15)(13)~~ "Sales price" means the total amount charged in
 182 money or other consideration by a dealer for the sale of the
 183 right or privilege of using communications services in this
 184 state, including any property or other service, not described in
 185 paragraph (a), which is services that are part of the sale and
 186 for which the charge is not separately itemized on a customer's
 187 bill or separately allocated under subparagraph (b)8. The sales
 188 price of communications services may ~~shall~~ not be reduced by any
 189 separately identified components of the charge which ~~that~~
 190 constitute expenses of the dealer, including, but not limited
 191 to, sales taxes on goods or services purchased by the dealer,
 192 property taxes, taxes measured by net income, and universal-
 193 service fund fees.

194 (a) The sales price of communications services includes
 195 ~~shall include~~, whether or not separately stated, charges for any
 196 of the following:

- 197 1. The connection, movement, change, or termination of
- 198 communications services.
- 199 2. The detailed billing of communications services.
- 200 3. The sale of directory listings in connection with a
- 201 communications service.
- 202 4. Central office and custom calling features.
- 203 5. Voice mail and other messaging service.

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204 6. Directory assistance.

205 7. The service of sending or receiving a document commonly
 206 referred to as a facsimile or "fax," except when performed
 207 during the course of providing professional or advertising
 208 services.

209 (b) The sales price of communications services does not
 210 include charges for any of the following:

211 1. An ~~Any~~ excise tax, sales tax, or similar tax levied by
 212 the United States or any state or local government on the
 213 purchase, sale, use, or consumption of any communications
 214 service, including, but not limited to, a ~~any~~ tax imposed under
 215 this chapter or chapter 203 which is permitted or required to be
 216 added to the sales price of such service, if the tax is stated
 217 separately.

218 2. A ~~Any~~ fee or assessment levied by the United States or
 219 any state or local government, including, but not limited to,
 220 regulatory fees and emergency telephone surcharges, which must
 221 ~~is required to~~ be added to the price of the ~~such~~ service if the
 222 fee or assessment is separately stated.

223 3. Communications services paid for by inserting coins into
 224 coin-operated communications devices available to the public.

225 4. The sale or recharge of a prepaid calling arrangement.

226 5. The provision of air-to-ground communications services,
 227 defined as a radio service provided to a purchaser ~~purchasers~~
 228 while on board an aircraft.

229 6. A dealer's internal use of communications services in
 230 connection with its business of providing communications
 231 services.

232 7. Charges for property or other services that are not part

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233 of the sale of communications services, if such charges are
 234 stated separately from the charges for communications services.

235 8. ~~To the extent required by federal law,~~ Charges for goods
 236 and services that are exempt from tax under this chapter,
 237 including Internet access services but excluding any item
 238 described in paragraph (a), that ~~which~~ are not separately
 239 itemized on a customer's bill, but ~~that~~ ~~which~~ can be reasonably
 240 identified from the selling dealer's books and records kept in
 241 the regular course of business. The dealer may support the
 242 allocation of charges with books and records kept in the regular
 243 course of business covering the dealer's entire service area,
 244 including territories outside this state.

245 ~~(16)-(14)~~ "Service address" means:

246 (a) Except as otherwise provided in this section:

247 1. The location of the communications equipment from which
 248 communications services originate or at which communications
 249 services are received by the customer;

250 2. In the case of a communications service paid through a
 251 credit or payment mechanism that does not relate to a service
 252 address, such as a bank, travel, debit, or credit card, and in
 253 the case of third-number and calling-card calls, the term
 254 "service address" means the address of the central office, as
 255 determined by the area code and the first three digits of the
 256 seven-digit originating telephone number; or

257 3. If the location of the equipment described in
 258 subparagraph 1. is not known and subparagraph 2. is
 259 inapplicable, the term "service address" means the location of
 260 the customer's primary use of the communications service. For
 261 purposes of this subparagraph, the location of the customer's

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262 primary use of a communications service is the residential
 263 street address or the business street address of the customer.

264 (b) In the case of video cable services and direct-to-home
 265 satellite services, the location where the customer receives the
 266 services in this state.

267 (c) In the case of mobile communications services, the
 268 customer's place of primary use.

269 ~~(17)-(15)~~ "Unbundled network element" means a network
 270 element, as defined in 47 U.S.C. s. 153(29), to which access is
 271 provided on an unbundled basis pursuant to 47 U.S.C. s.
 272 251(c)(3).

273 ~~(18)-(16)~~ "Private communications service" means a
 274 communications service that entitles the subscriber or user to
 275 exclusive or priority use of a communications channel or group
 276 of channels between or among channel termination points,
 277 regardless of the manner in which such channel or channels are
 278 connected, and includes switching capacity, extension lines,
 279 stations, and any other associated services ~~that~~ ~~which~~ are
 280 provided in connection with the use of such channel or channels.

281 ~~(19)-(17)~~ (a) "Customer" means:

282 1. The person or entity that contracts with the home
 283 service provider for mobile communications services; or

284 2. If the end user of mobile communications services is not
 285 the contracting party, the end user of the mobile communications
 286 service. This subparagraph only applies for the purpose of
 287 determining the place of primary use.

288 (b) "Customer" does not include:

289 1. A reseller of mobile communications services; or
 290 2. A serving carrier under an agreement to serve the

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291 customer outside the home service provider's licensed service
292 area.

293 ~~(20)-(18)~~ "Enhanced zip code" means a United States postal
294 zip code of 9 or more digits.

295 ~~(21)-(19)~~ "Home service provider" means the facilities-based
296 carrier or reseller with which the customer contracts for the
297 provision of mobile communications services.

298 ~~(22)-(20)~~ "Licensed service area" means the geographic area
299 in which the home service provider is authorized by law or
300 contract to provide mobile communications service to the
301 customer.

302 ~~(23)-(21)~~ "Place of primary use" means the street address
303 representative of where the customer's use of the mobile
304 communications service primarily occurs, which must be:

305 (a) The residential street address or the primary business
306 street address of the customer; and

307 (b) Within the licensed service area of the home service
308 provider.

309 ~~(24)-(22)~~ (a) "Reseller" means a provider who purchases
310 communications services from another communications service
311 provider and then resells, uses as a component part of, or
312 integrates the purchased services into a mobile communications
313 service.

314 (b) The term "Reseller" does not include a serving carrier
315 with which a home service provider arranges for the services to
316 its customers outside the home service provider's licensed
317 service area.

318 ~~(25)-(23)~~ "Serving carrier" means a facilities-based carrier
319 providing mobile communications service to a customer outside a

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320 home service provider's or reseller's licensed service area.

321 ~~(26)-(24)~~ "Video service" means the transmission of video,
322 audio, or other programming service to a purchaser, and the
323 purchaser interaction, if any, required for the selection or use
324 of a programming service, regardless of whether the programming
325 is transmitted over facilities owned or operated by the video
326 service provider or over facilities owned or operated by another
327 dealer of communications services. The term includes point-to-
328 point and point-to-multipoint distribution services through
329 which programming is transmitted or broadcast by microwave or
330 other equipment directly to the purchaser's premises, but does
331 not include direct-to-home satellite service. The term includes
332 basic, extended, premium, pay-per-view, digital video, two-way
333 cable, and music services ~~has the same meaning as that provided~~
334 ~~in s. 610.103.~~

335 Section 3. Subsection (1) of section 202.125, Florida
336 Statutes, is amended to read:

337 202.125 Sales of communications services; specified
338 exemptions.—

339 (1) The separately stated sales price of communications
340 services sold to residential households is exempt from the tax
341 imposed by s. 202.12 and s. 203.01(1)(b)3. This exemption does
342 not apply to any residence that constitutes all or part of a
343 transient public lodging establishment as defined in chapter
344 509, any mobile communications service, any video cable service,
345 or any direct-to-home satellite service.

346 Section 4. Paragraph (a) of subsection (2) of section
347 202.16, Florida Statutes, is amended to read:

348 202.16 Payment.—The taxes imposed or administered under

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349 this chapter and chapter 203 shall be collected from all dealers
 350 of taxable communications services on the sale at retail in this
 351 state of communications services taxable under this chapter and
 352 chapter 203. The full amount of the taxes on a credit sale,
 353 installment sale, or sale made on any kind of deferred payment
 354 plan is due at the moment of the transaction in the same manner
 355 as a cash sale.

356 (2) (a) A sale of communications services that are used as a
 357 component part of or integrated into a communications service or
 358 prepaid calling arrangement for resale, including, but not
 359 limited to, carrier-access charges, interconnection charges paid
 360 by providers of mobile communication services or other
 361 communication services, charges paid by a video enable service
 362 provider providers for the purchase of video programming or the
 363 transmission of video or other programming by another dealer of
 364 communications services, charges for the sale of unbundled
 365 network elements, and any other intercompany charges for the use
 366 of facilities for providing communications services for resale,
 367 must be made in compliance with the rules of the department. A
 368 Any person who makes a sale for resale which is not in
 369 compliance with these rules is liable for any tax, penalty, and
 370 interest due for failing to comply, to be calculated pursuant to
 371 s. 202.28(2) (a).

372 Section 5. Paragraph (c) of subsection (3) of section
 373 202.18, Florida Statutes, is amended to read:

374 202.18 Allocation and disposition of tax proceeds.—The
 375 proceeds of the communications services taxes remitted under
 376 this chapter shall be treated as follows:

377 (3)

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378 (c)1. Except as otherwise provided in this paragraph,
 379 proceeds of the taxes levied pursuant to s. 202.19, less amounts
 380 deducted for costs of administration in accordance with
 381 paragraph (b), shall be distributed monthly to the appropriate
 382 jurisdictions. The proceeds of taxes imposed pursuant to s.
 383 202.19(5) shall be distributed in the same manner as
 384 discretionary surtaxes are distributed, in accordance with ss.
 385 212.054 and 212.055.

386 2. The department shall make any adjustments to the
 387 distributions pursuant to this section which are necessary to
 388 reflect the proper amounts due to individual jurisdictions or
 389 trust funds. In the event that the department adjusts amounts
 390 due to reflect a correction in the situsing of a customer, such
 391 adjustment shall be limited to the amount of tax actually
 392 collected from such customer by the dealer of communication
 393 services.

394 3.a. ~~Notwithstanding the time period specified in s.~~
 395 ~~202.22(5),~~ Adjustments in distributions which are necessary to
 396 correct misallocations between jurisdictions shall be governed
 397 by this subparagraph. If the department determines that
 398 misallocations between jurisdictions occurred, it shall provide
 399 written notice of such determination to all affected
 400 jurisdictions. The notice shall include the amount of the
 401 misallocations, the basis upon which the determination was made,
 402 data supporting the determination, and the identity of each
 403 affected jurisdiction. The notice shall also inform all affected
 404 jurisdictions of their authority to enter into a written
 405 agreement establishing a method of adjustment as described in
 406 sub-subparagraph c.

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407 b. An adjustment affecting a distribution to a jurisdiction
 408 which is less than 90 percent of the average monthly
 409 distribution to that jurisdiction for the 6 months immediately
 410 preceding the department's determination, as reported by all
 411 communications services dealers, shall be made in the month
 412 immediately following the department's determination that
 413 misallocations occurred.

414 c. If an adjustment affecting a distribution to a
 415 jurisdiction equals or exceeds 90 percent of the average monthly
 416 distribution to that jurisdiction for the 6 months immediately
 417 preceding the department's determination, as reported by all
 418 communications services dealers, the affected jurisdictions may
 419 enter into a written agreement establishing a method of
 420 adjustment. If the agreement establishing a method of adjustment
 421 provides for payments of local communications services tax
 422 monthly distributions, the amount of any such payment agreed to
 423 may not exceed the local communications services tax monthly
 424 distributions available to the jurisdiction that was allocated
 425 amounts in excess of those to which it was entitled. If affected
 426 jurisdictions execute a written agreement specifying a method of
 427 adjustment, a copy of the written agreement shall be provided to
 428 the department no later than the first day of the month
 429 following 90 days after the date the department transmits notice
 430 of the misallocation. If the department does not receive a copy
 431 of the written agreement within the specified time period, an
 432 adjustment affecting a distribution to a jurisdiction made
 433 pursuant to this sub-subparagraph shall be prorated over a time
 434 period that equals the time period over which the misallocations
 435 occurred.

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436 Section 6. Subsections (1) and (3) of section 202.195,
 437 Florida Statutes, are amended to read:

438 202.195 Proprietary confidential business information;
 439 public records exemption.-

440 (1) Proprietary confidential business information obtained
 441 from a telecommunications company or from a franchised or
 442 certificated video service provider ~~cable company~~ for the
 443 purposes of ~~imposing fees for occupying the public rights-of-~~
 444 ~~way~~, assessing the local communications services tax pursuant to
 445 s. 202.19, or occupying or regulating the public rights-of-way,
 446 held by a local governmental entity, is confidential and exempt
 447 from s. 119.07(1) and s. 24(a), Art. I of the State
 448 Constitution. Such proprietary confidential business information
 449 held by a local governmental entity may be used only for the
 450 purposes of ~~imposing such fees~~, assessing such tax, or
 451 regulating such rights-of-way, and may not be used for any other
 452 purposes, including, but not limited to, commercial or
 453 competitive purposes.

454 (3) ~~Nothing in~~ This exemption does not expand ~~expands~~ the
 455 information or documentation that a local governmental entity
 456 may properly request under applicable law pursuant to ~~the~~
 457 ~~imposition of fees for~~ occupying the rights-of-way, the local
 458 communication services tax, or the regulation of its public
 459 rights-of-way.

460 Section 7. Paragraph (b) of subsection (2) of section
 461 202.20, Florida Statutes, is amended to read:

462 202.20 Local communications services tax conversion rates.-

463 (2)

464 (b) Except as otherwise provided in this subsection, the

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465 term "replaced revenue sources," as used in this section, means
 466 the following taxes, charges, fees, or other impositions to the
 467 extent that the respective local taxing jurisdictions were
 468 authorized to impose them prior to July 1, 2000.

469 1. With respect to municipalities and charter counties and
 470 the taxes authorized by s. 202.19(1):

471 a. The public service tax on telecommunications authorized
 472 by former s. 166.231(9).

473 b. Franchise fees on video cable service providers as
 474 authorized by 47 U.S.C. s. 542.

475 c. The public service tax on prepaid calling arrangements.

476 d. Franchise fees on dealers of communications services
 477 which use the public roads or rights-of-way, up to the limit set
 478 forth in s. 337.401. For purposes of calculating rates under
 479 this section, it is the legislative intent that charter counties
 480 be treated as having had the same authority as municipalities to
 481 impose franchise fees on recurring local telecommunication
 482 service revenues before ~~prior to~~ July 1, 2000. However, the
 483 Legislature recognizes that the authority of charter counties to
 484 impose such fees is in dispute, and the treatment provided in
 485 this section is not an expression of legislative intent that
 486 charter counties actually do or do not possess such authority.

487 e. Actual permit fees relating to placing or maintaining
 488 facilities in or on public roads or rights-of-way, collected
 489 from providers of long-distance, cable, and mobile
 490 communications services for the fiscal year ending September 30,
 491 1999; however, if a municipality or charter county elects the
 492 option to charge permit fees pursuant to s. 337.401(3)(c)1.a.,
 493 such fees may ~~shall~~ not be included as a replaced revenue

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494 source.

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

498 Section 8. Subsections (5) and (6) of section 202.22,
 499 Florida Statutes, are amended to read:

500 202.22 Determination of local tax situs.—

501 (5) If a dealer of communications services does not use one
 502 or more of the methods specified in subsection (1) for
 503 determining the local taxing jurisdiction in which one or more
 504 service addresses are ~~a service address is~~ located and:

505 (a) The dealer's failure to use one or more of such methods
 506 results in a net aggregate underpayment of all taxes levied
 507 pursuant to s. 202.19 with respect to one or more tax periods
 508 that are being examined by the department; and

509 (b) The department has determined the misallocations
 510 between jurisdictions for all taxes levied pursuant to s. 202.19
 511 and collected by the dealer with respect to any tax period being
 512 examined by the department; then,

513
 514 the dealer of communications services may be held liable to the
 515 department for the net aggregate underpayment of any tax, and
 516 for including interest and penalties attributable to the net
 517 aggregate underpayment of tax, which is due as a result of
 518 assigning one or more ~~the~~ service addresses ~~address~~ to an
 519 incorrect local taxing jurisdiction. However, the dealer of
 520 communications services is not liable for any tax, interest, or
 521 penalty under this subsection unless the department has
 522 determined the net aggregate underpayment of tax for any tax

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523 ~~period that is being examined, taking into account all~~
 524 ~~underpayments and overpayments for such period or periods to the~~
 525 ~~extent that such amount was collected and remitted by the dealer~~
 526 ~~of communications services with respect to a tax imposed by~~
 527 ~~another local taxing jurisdiction. Upon determining that an~~
 528 ~~amount was collected and remitted by a dealer of communications~~
 529 ~~services with respect to a tax imposed by another local taxing~~
 530 ~~jurisdiction, the department shall adjust the respective amounts~~
 531 ~~of the proceeds paid to each such taxing jurisdiction under s.~~
 532 ~~202.18 in the month immediately following such determination.~~

533 (6) (a) Pursuant to rules adopted by the department, each
 534 dealer of communications services must notify the department of
 535 the methods it intends to employ for determining the local
 536 taxing jurisdiction in which service addresses are located.

537 (b) Notwithstanding s. 202.28, if a dealer of
 538 communications services:

539 1. Employs a method of assigning service addresses other
 540 than as set forth in paragraph (1) (a), paragraph (1) (b), or
 541 paragraph (1) (c), the deduction allowed to the dealer of
 542 communications services as compensation under s. 202.28 shall be
 543 0.25 percent of that portion of the tax due and accounted for
 544 and remitted to the department which is attributable to such
 545 method of assigning service addresses other than as set forth in
 546 paragraph (1) (a), paragraph (1) (b), or paragraph (1) (c).

547 2. Employs a method of assigning service addresses as set
 548 forth in paragraph (1) (a), paragraph (1) (b), or paragraph
 549 (1) (c), the department may not deny the deduction allowed to the
 550 dealer of communications services as compensation allowed under
 551 s. 202.28 because the dealer assigned one or more service

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552 addresses to an incorrect local taxing jurisdiction.

553 Section 9. Subsection (3) is added to section 202.231,
 554 Florida Statutes, to read:

555 202.231 Provision of information to local taxing
 556 jurisdictions.-

557 (3) The gross taxable sales and net tax information
 558 contained in the monthly reports required by this section shall
 559 be aggregated on a jurisdiction-by-jurisdiction basis, and the
 560 aggregate jurisdiction-by-jurisdiction information shall be made
 561 available by the department to the public through the
 562 department's website for each fiscal year this chapter has been
 563 in effect.

564 Section 10. Paragraphs (a) and (c) of subsection (2) of
 565 section 202.24, Florida Statutes, are amended to read:

566 202.24 Limitations on local taxes and fees imposed on
 567 dealers of communications services.-

568 (2) (a) Except as provided in paragraph (c), each public
 569 body is prohibited from:

570 1. Levying on or collecting from dealers or purchasers of
 571 communications services any tax, charge, fee, or other
 572 imposition on or with respect to the provision or purchase of
 573 communications services.

574 2. Requiring any dealer of communications services to enter
 575 into or extend the term of a franchise or other agreement that
 576 requires the payment of a tax, charge, fee, or other imposition.

577 3. Adopting or enforcing any provision of any ordinance or
 578 agreement to the extent that such provision obligates a dealer
 579 of communications services to charge, collect, or pay to the
 580 public body a tax, charge, fee, or other imposition.

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581
582 Municipalities and counties may not negotiate those terms and
583 conditions related to franchise fees or the definition of gross
584 revenues or other definitions or methodologies related to the
585 payment or assessment of franchise fees on providers of ~~cable or~~
586 video services.

587 (c) This subsection does not apply to:

- 588 1. Local communications services taxes levied under this
589 chapter.
- 590 2. Ad valorem taxes levied pursuant to chapter 200.
- 591 3. Business taxes levied under chapter 205.
- 592 4. "911" service charges levied under chapter 365.
- 593 5. Amounts charged for the rental or other use of property
594 owned by a public body which is not in the public rights-of-way
595 to a dealer of communications services for any purpose,
596 including, but not limited to, the placement or attachment of
597 equipment used in the provision of communications services.
- 598 6. Permit fees of general applicability which are not
599 related to placing or maintaining facilities in or on public
600 roads or rights-of-way.
- 601 7. Permit fees related to placing or maintaining facilities
602 in or on public roads or rights-of-way pursuant to s. 337.401.
- 603 8. Any in-kind requirements, institutional networks, or
604 contributions for, or in support of, the use or construction of
605 public, educational, or governmental access facilities allowed
606 under federal law and imposed on providers of ~~cable or~~ video
607 service pursuant to any existing ordinance or an existing
608 franchise agreement granted by each municipality or county,
609 under which ordinance or franchise agreement service is provided

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610 ~~before~~ ~~prior to~~ July 1, 2007, or as permitted under chapter 610.
611 ~~Nothing in~~ This subparagraph does not shall prohibit the ability
612 of providers of ~~cable or~~ video service from recovering the ~~to~~
613 ~~recover such~~ expenses as allowed under federal law.

614 9. Special assessments and impact fees.

615 10. Pole attachment fees that are charged by a local
616 government for attachments to utility poles owned by the local
617 government.

618 11. Utility service fees or other similar user fees for
619 utility services.

620 12. Any other generally applicable tax, fee, charge, or
621 imposition authorized by general law on July 1, 2000, which is
622 not specifically prohibited by this subsection or included as a
623 replaced revenue source in s. 202.20.

624 Section 11. Paragraph (j) of subsection (3) of section
625 202.26, Florida Statutes, is amended to read:

626 202.26 Department powers.—

627 (3) To administer the tax imposed by this chapter, the
628 department may adopt rules relating to:

629 (j) The types of books and records kept in the regular
630 course of business which must be available during an audit of a
631 dealer's books and records when the dealer has made an
632 allocation or attribution pursuant to the definition of sales
633 prices in s. 202.11(15)(b)8. ~~202.11(13)(b)8.~~ and examples of
634 methods for determining the reasonableness thereof. Books and
635 records kept in the regular course of business include, but are
636 not limited to, general ledgers, price lists, cost records,
637 customer billings, billing system reports, tariffs, and other
638 regulatory filings and rules of regulatory authorities. The Such

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639 records may be required to be made available to the department
 640 in an electronic format when so kept by the dealer. The dealer
 641 may support the allocation of charges with books and records
 642 kept in the regular course of business covering the dealer's
 643 entire service area, including territories outside this state.
 644 During an audit, the department may reasonably require
 645 production of any additional books and records found necessary
 646 to assist in its determination.

647 Section 12. Paragraph (a) of subsection (1) of section
 648 203.01, Florida Statutes, is amended to read:

649 203.01 Tax on gross receipts for utility and communications
 650 services.-

651 (1)(a)1. A tax is imposed on gross receipts from utility
 652 services that are delivered to a retail consumer in this state.
 653 The ~~Such~~ tax shall be levied as provided in paragraphs (b)-(j).

654 2. A tax is levied on communications services as defined in
 655 s. 202.11(1) ~~202.11(2)~~. The ~~Such~~ tax shall be applied to the
 656 same services and transactions as are subject to taxation under
 657 chapter 202, and to communications services that are subject to
 658 the exemption provided in s. 202.125(1). The ~~Such~~ tax shall be
 659 applied to the sales price of communications services when sold
 660 at retail, as the ~~such~~ terms are defined in s. 202.11, shall be
 661 due and payable at the same time as the taxes imposed pursuant
 662 to chapter 202, and shall be administered and collected pursuant
 663 to the provisions of chapter 202.

664 Section 13. Paragraph (a) of subsection (1) of section
 665 610.118, Florida Statutes, is amended to read:

666 610.118 Impairment; court-ordered operations.-

667 (1) If an incumbent cable or video service provider is

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668 required to operate under its existing franchise and is legally
 669 prevented by a lawfully issued order of a court of competent
 670 jurisdiction from exercising its right to terminate its existing
 671 franchise pursuant to the terms of s. 610.105, any
 672 certificateholder providing cable service or video service in
 673 whole or in part within the service area that is the subject of
 674 the incumbent cable or video service provider's franchise shall,
 675 for as long as the court order remains in effect, comply with
 676 the following franchise terms and conditions as applicable to
 677 the incumbent cable or video service provider in the service
 678 area:

679 (a) The certificateholder shall pay to the municipality or
 680 county:

681 1. Any prospective lump-sum or recurring per-subscriber
 682 funding obligations to support public, educational, and
 683 governmental access channels or other prospective franchise-
 684 required monetary grants related to public, educational, or
 685 governmental access facilities equipment and capital costs.
 686 Prospective lump-sum payments shall be made on an equivalent
 687 per-subscriber basis calculated as follows: the amount of the
 688 prospective funding obligations divided by the number of
 689 subscribers being served by the incumbent cable service provider
 690 at the time of payment, divided by the number of months
 691 remaining in the incumbent cable or video service provider's
 692 franchise equals the monthly per subscriber amount to be paid by
 693 the certificateholder until the expiration or termination of the
 694 incumbent cable or video service provider's franchise; and

695 2. If the incumbent cable or video service provider is
 696 required to make payments for the funding of an institutional

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697 network, the certificateholder shall pay an amount equal to the
 698 incumbent's funding obligations but not to exceed 1 percent of
 699 the sales price, as defined in s. ~~202.11(15)~~ ~~202.11(13)~~, for the
 700 taxable monthly retail sales of cable or video programming
 701 services the certificateholder received from subscribers in the
 702 affected municipality or county. All definitions and exemptions
 703 under chapter 202 apply in the determination of taxable monthly
 704 retail sales of cable or video programming services.

705 Section 14. Section 624.105, Florida Statutes, is amended
 706 to read:

707 624.105 Waiver of customer liability.—Any regulated company
 708 as defined in s. 350.111, any electric utility as defined in s.
 709 366.02(2), any utility as defined in s. 367.021(12) or s.
 710 367.022(2) and (7), and any provider of communications services
 711 as defined in s. ~~202.11(1)~~ ~~202.11(2)~~ may charge for and include
 712 an optional waiver of liability provision in their customer
 713 contracts under which the entity agrees to waive all or a
 714 portion of the customer's liability for service from the entity
 715 for a defined period in the event of the customer's call to
 716 active military service, death, disability, involuntary
 717 unemployment, qualification for family leave, or similar
 718 qualifying event or condition. Such provisions may not be
 719 effective in the customer's contract with the entity unless
 720 affirmatively elected by the customer. No such provision shall
 721 constitute insurance so long as the provision is a contract
 722 between the entity and its customer.

723 Section 15. The following changes made in this act are
 724 intended to be remedial in nature and apply retroactively, but
 725 do not provide a basis for an assessment of any tax not paid or

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726 create a right to a refund or credit of any tax paid before the
 727 general effective date of this act:

728 (1) The changes made in section 2 of this act to
 729 subsections renumbered as subsections (9) and (15) of s. 202.11,
 730 Florida Statutes.

731 (2) The changes made in section 8 of this act to s. 202.22,
 732 Florida Statutes.

733 Section 16. This act shall take effect July 1, 2012.

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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)

2/23/12

Meeting Date

Topic Communications Services TAX

Bill Number 1060
(if applicable)

Name Charles Dudley

Amendment Barcode _____
(if applicable)

Job Title General Counsel

Address 108 S. Monroe St. #200

Phone 681 0024

Street

Tallah FL 32301

City

State

Zip

E-mail CDudley@FlaPartners.com

Speaking: For Against Information

Representing FL Cable Telecomm. Assoc.

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

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2/23/12
Meeting Date

Topic Comm. Services Tax

Bill Number SB 1060
(if applicable)

Name Christina Johnson

Amendment Barcode _____
(if applicable)

Job Title Director

Address PO Box 1369

Phone 391 5040

Street
Tallahassee, FL 32302-1369
City State Zip

E-mail christina@on3pr.com

Speaking: For Against Information

Representing Citizens for a Digital Future

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

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2/23/12
Meeting Date

Topic CST

Bill Number CS/CS/SB 1060
(if applicable)

Name Vicki Weber

Amendment Barcode _____
(if applicable)

Job Title attorney

Address 119 South Monroe

Phone 222-7500

Tallahassee Fla 32301
City State Zip

E-mail vweber@hgsbw.com

Speaking: For Against Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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2/23/2012
Meeting Date

Topic CST - amendment

Bill Number 1060
(if applicable)

Name Amber Hughes

Amendment Barcode 77 4432
(if applicable)

Job Title Legislative Advocate

Address PO Box 1757
Street

Phone 701-3621

Tall. FL 32302
City State Zip

E-mail ahughes@flicities.com

Speaking: For Against Information

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-23

Meeting Date

Topic CST Amendment

Bill Number 1060
(if applicable)

Name DAVIN Suggs

Amendment Barcode # 774432
(if applicable)

Job Title Gr. Leg. Advocate

Address _____
Street

Phone 850.320.2635

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing FL. Association 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
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 Budget Subcommittee on Finance and Tax

BILL: CS/SB 1182

INTRODUCER: Community Affairs Committee and Senator Norman

SUBJECT: Public Housing

DATE: January 30, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.	Babin	Diez-Arguelles	BFT	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 1182 (“the bill”) allows the Florida Housing Finance Corporation to use 10 percent of its annual allocation of: 1) low-income housing tax credits, 2) nontaxable revenue bonds, and 3) State Apartment Incentive Loan (SAIL) funds for proposals related to high priority affordable housing projects, such as housing to support economic development and job creation, housing for veterans and their families and housing for other special needs populations.

This bill also provides a finding that essential commercial goods and services required for daily living are necessary to residents of housing authorities but are difficult to access. The bill grants a housing authority the ability to develop and construct commercial projects, which would provide these types of goods and services. Revenue received by a housing authority from a commercial project must be used to upgrade and improve the housing project or to preserve and rehabilitate other housing authority properties. A commercial project so established would be exempt from property taxation and all taxes and special assessments of the state or any city, town, county, or political subdivision of the state. A housing authority’s power of eminent domain would not apply to real property used to provide access to essential commercial goods and services.

The bill also revises provisions for terminating a rental agreement that involves rent subsidies received from a local, state or national government.

This bill substantially amends sections 83.56, 421.02, 421.03, 421.08, 421.09, 421.32, 422.02, 422.04, 423.01, 423.02, and 420.507, Florida Statutes.

This bill substantially amends and reenacts section 421.21, Florida Statutes.

II. Present Situation:

Public Housing Authorities

The state role in housing and urban development is outlined in part I of ch. 421, F.S., (Housing Authorities Law), ch. 422, F.S., (Housing Cooperation Law), and ch. 423, F.S., (Tax Exemption of Housing Authorities).¹ Section 421.02, F. S., finds that there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford. Providing such accommodations, including the acquisition by a housing authority of property to be used for or in connection with housing projects, are deemed exclusively public uses and purposes for which public money may be spent and private property may be acquired. These purposes are determined to be governmental functions of public concern.

City, County, and Regional Housing Authorities

Florida statutes provide for the creation of special district, city, county and regional housing authorities. Of the 110 Public Housing Authorities in Florida,² 93 are special districts.³

The determination of the need for a city housing authority may be made by the governing body of a city or upon the filing of a petition signed by 25 city residents. The mayor, with the approval of the governing body, appoints no fewer than five and no more than seven persons as commissioners of the authority.⁴ The powers of each authority are vested in the commissioners and action may be taken upon a majority vote of the commissioners. No commissioner or employee of an authority may acquire any interest in any housing project or in any property included or planned to be included in any project, nor in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project.⁵

Section 421.08, F.S., establishes the powers of a housing authority, including:

- the power to acquire, lease, and operate housing projects,
- the power to provide for the construction, reconstruction, improvement, alteration, or repair of any housing project,

¹ The Department of Economic Opportunity (DEO) is the state agency charged with the responsibility of this state role.

² Florida Housing Data Clearing House, *Public Housing Agency Results*, available at http://flhousingdata.shimberg.ufl.edu/a/public_housing_agency?next=results&submit_submit.x=15&submit_submit.y=13&nid=1 (last visited Feb 19, 2012).

³ Florida Department of Economic Opportunity, *Official List of Special Districts Online*, (available online at <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/index.cfm>) (last visited Feb. 19, 2012).

⁴ At least one commissioner must be a resident of a housing project or a person of low income who resides within the housing authority's jurisdiction and is receiving a rent subsidy. See s. 4231.05(1), F.S.

⁵ See s 421.06, F.S.

- the power to lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project, and
- the power to invest any funds held in reserves or sinking funds.

Section 421.08(8)(a), F.S., grants the power to:

organize for the purpose of creating a for-profit or not-for-profit corporation, limited liability company, or other similar business entity . . . to develop, acquire, lease, construct, rehabilitate, manage, or operate multifamily or single-family residential projects. These projects may include nonresidential uses and may use public and private funds to serve individuals or families who meet the applicable income requirements of the state or federal program involved; . . .

Section 421.27, F.S., governs the creation and powers of county housing authorities which is similar to the creation of city housing authorities.⁶ A county housing authority's area of operation includes all of the county except that portion which lies within the territorial boundaries of any city as defined in the Housing Authorities Law. A regional housing authority may be created by two or more contiguous counties if a regional entity would be a more economically or administratively efficient unit.⁷ The powers of a regional housing authority are analogous to those of a city or county housing authority.

Housing Authorities and Eminent Domain

An authority has the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes.⁸ Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the city, the county, the state or any political subdivision may be acquired without its consent.

Federal Aid for Housing Authorities

Section 421.21, F.S., empowers a housing authority to borrow money or accept grants or other financial assistance from the Federal Government for housing projects. This section also allows a housing authority to take over or lease or manage any housing project or undertaking constructed or owned by the Federal Government. In addition, an authority is authorized "to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, construction, maintenance or operation of any housing project by such authority."⁹

Housing Cooperation Law (Chapter 422, Florida Statutes)

Chapter 422, Florida Statutes, provides that any state public body, for the purpose of aiding and cooperating in the construction or operation of housing projects may:

- sell or lease any of its property to a housing authority or the Federal Government;

⁶ In counties, petitions must be signed by 25 county residents and the Governor appoints the commissioners.

⁷ See s. 421.28, F.S. The Governor appoints commissioners pursuant to s. 421.30, F.S.

⁸ Section 421.12, F.S. An authority may exercise the power of eminent domain pursuant to ch. 73 and ch. 74, F.S.

⁹ Section 421.21, F.S.

- cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities or any other works, which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;
- furnish, close, pave, install, grade, or plan streets, roads, alleys, or sidewalks;
- do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of housing projects;
- purchase or legally invest in any of the debentures of a housing authority.¹⁰

Tax Exemption of Housing Authorities

Chapter 423, Florida Statutes, provides property tax exemptions as well as state and local government tax and assessment exemptions for housing authorities. Specifically, s. 423.01(4), F.S., states:

Such housing projects, including all property of a housing authority used for or in connection therewith or appurtenant thereto, are exclusively for public uses and municipal purposes and not for profit, and are governmental functions of state concern. As a matter of legislative determination, it is found and declared that the property and debentures of a housing authority are of such character as may be exempt from taxation.

Section 423.02, F.S., states that

. . . housing projects, including all property of housing authorities used for or in connection therewith or appurtenant thereto, of housing authorities shall be exempt from all taxes and special assessments of the state or any city, town, county, or political subdivision of the state . . .¹¹

Age of Public Housing Units in Florida

The first public housing units were built in Florida in the 1940s. According to the Shimberg Center for Housing Studies at the University of Florida, as of 2009, public housing authorities provided 35,840 housing units in the state. Of these, 77% were built before 1980 and 15% are now over 50 years old.¹² The table below provides data on numbers and ages of public housing units.

¹⁰ See s. 422.04(1), F.S.

¹¹ In lieu of such taxes or special assessments a housing authority may agree to make payments to a local government for services, improvements or facilities furnished by the entity for the benefit of a housing project owned by the housing authority.

¹² E-mail from Anne Ray, Florida Housing Data Clearinghouse Manager, Shimberg Center for Housing Studies (Jan. 26, 2012) (on file with the Senate Committee on Community Affairs).

Public Housing by Decade¹³	
Decade Built	Housing Units
1940-1949	2,991
1950-1959	2,475
1960-1969	5,647
1970-1979	14,442
1980-1989	3,021
1990-1999	1,030
2000-2009	3,759
Total	33,365

The Affordable Housing Commission's 2006 Annual Report highlighted the age and expiration of Florida's affordable housing stock stating that the physical condition and maintenance of older units was a cause for concern.¹⁴ The report went on to outline the parameters of the situation.

From a preservation perspective, the threat to public housing is the ongoing deterioration of an aging stock. Additionally, the physical condition of public housing properties is crucial to the ability of PHAs [Public Housing Authorities] to rent the units and generate revenue. The capital needs of public housing have been chronically under-funded for much of the program's history, and the mechanisms to address maintenance and rehabilitation can be unwieldy. Early in the program's history, too little funding was provided to keep maintenance problems in check and today these long deferred maintenance issues continue to worsen.

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (FHFC)¹⁵ is a state entity primarily responsible for encouraging the construction and reconstruction of new and rehabilitated affordable housing in Florida. It was created in 1997, when the Legislature enacted chapter 97-167, Laws of Florida, to streamline implementation of affordable housing programs by reconstituting the agency as a corporation. The FHFC is a public corporation housed within the Department of Economic Opportunity (DEO), but is a separate budget entity not subject to the control, supervision, or direction of the DEO.¹⁶ Instead, it is governed by a nine member board of directors comprised of the Secretary of DEO, who serves as an ex officio voting member, and eight members appointed by the Governor, subject to confirmation by the Senate.¹⁷

¹³ According to the Florida Housing Data Clearinghouse, the year built is unknown for 2,475 of the units.

¹⁴ The Affordable Housing Study Commission, *A Preservation Strategy for Florida's Affordable Multifamily Housing* (2006) available at <http://www.floridahousing.org/NR/rdonlyres/63332252-F3EA-486A-9F59-B95E7F6CDE56/0/AHSCFinalReport2006.pdf> (last visited Feb. 18, , 2012).

¹⁵ Formerly the Florida Housing Finance Agency.

¹⁶ Section 420.504, F.S.

¹⁷ *Id.*

The corporation operates several housing programs financed with state and federal dollars, including:

- The State Apartment Incentive Loan Program (SAIL), which annually provides low-interest loans on a competitive basis to affordable housing developers;¹⁸
- The Florida Homeowner Assistance Program (HAP), which includes the First Time Homebuyer Program, the Down Payment Assistance Program, the Homeownership Pool Program, and the Mortgage Credit Certificate program;
- The Florida Affordable Housing Guarantee Program, which encourages lenders to finance affordable housing by issuing guarantees on financing of affordable housing developments financed with mortgage revenue bonds;
- The State Housing Initiatives Partnership Program (SHIP), which provides funds to cities and counties as an incentive to create local housing partnerships and to preserve and expand production of affordable housing;
- The Community Workforce Housing Innovation Pilot Program (CWHIP), which awards funds on a competitive basis to promote the creation of public-private partnerships to develop, finance, and build workforce housing; and
- The Hardest Hit Fund (HHF), established by the U.S. Treasury in 2010, which provides foreclosure prevention assistance through an unemployment mortgage program and a mortgage loan reinstatement program

The FHFC receives funding for its affordable housing programs from documentary stamp tax revenues which are distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund.¹⁹ The FHFC is also authorized to receive federal funding in connection with the corporation's programs directly from the Federal Government.²⁰ Section 420.509, F.S., allows the FHFC to issue revenue bonds which are payable solely from pledged revenues and shall not be secured by the full faith and credit of the state.

The State Housing Tax Credit Program is outlined in s. 420.5093, F.S. The FHFC establishes procedures necessary for proper allocation and distribution of state housing tax credits, including the establishment of criteria for any single-family or commercial component of a project. The board of directors of the FHFC administers the allocation procedures and determines allocations on behalf of the corporation.

The State Housing Strategy Act, located in Part I, of ch. 420, F.S., was created by the Legislature in 1992 to guarantee adequate affordable housing for Florida residents.²¹ Pursuant to s. 420.0003, F.S., the DEO and the FHFC annually coordinate with the Shimberg Center for Affordable Housing at the University of Florida²² to develop and maintain statewide data on affordable

¹⁸ Under current law, low interest mortgage loans provided under the SAIL Program are only available for qualifying farm workers, commercial fishing workers, the elderly, and the homeless. *See* s. 420.507(22), F.S.

¹⁹ Sections 201.15(9) and (10), F.S.

²⁰ *See* ss. 420.507(33) and 159.608, F.S.

²¹ Section 420.0003, F.S.

²² The Shimberg Center was established at the University of Florida in 1988 to "facilitate safe, decent and affordable housing throughout the state of Florida" and was named after Jim Shimberg Sr., a Tampa homebuilder dedicated to affordable housing. The Center's Florida Housing Data Clearinghouse provides public information on Florida housing needs, programs and demographics. For more information visit: <http://www.shimberg.ufl.edu/> (last visited Feb. 18, 2012).

housing needs for specific populations.²³ These studies are then used to review and evaluate existing affordable housing accommodations to ensure that they are consistent with current need assessments and to recommend any improvements or plan modifications.²⁴

Landlord and Tenant Obligations

Chapter 83, Florida Statutes governs landlord and tenant issues. A landlord's obligation to maintain premises is outlined in s. 83.51, F.S.,²⁵ while a tenant's obligation to maintain a dwelling unit is addressed in s. 83.52, F.S.²⁶ If a landlord accepts rent or if the tenant pays rent with actual knowledge of an obligation noncompliance by the other party, the landlord or tenant waives his or her right to terminate a rental agreement or to bring a civil action for that noncompliance. These provisions do not apply to that portion of rent subsidies received from a local, state, or national government or agency; however, waiver will occur if an action has not been instituted within 45 days of the noncompliance.

III. Effect of Proposed Changes:

Section 1 amends s. 83.56, F.S., to extend the time during which a landlord may institute an action terminating a lease when the landlord has accepted rent subsidies from the government. The time is extended from 45 days after non-compliance to 90 days after the landlord has actual knowledge of the non-compliance.

Section 2 amends s. 421.02, F.S., to declare that an important public purpose is served by providing access to essential commercial goods and services necessary for daily living for persons served by public housing authorities. Limited transportation capacity and significant family demands are cited as complications for these persons in their access efforts.

Section 3 amends s. 421.03, F.S., related to definitions. "Essential commercial goods and services" is newly defined to mean goods, such as groceries and clothing, and services, such as child care, K-12 education, financial services, job training and placement, and laundry facilities that are necessary for daily living and that may be difficult for persons of low income to access unless collocated with the housing project where they live and substantially serving persons of low income.

The definition of "housing project" is amended to also include any work or undertaking "to provide access to essential commercial goods and services."

Section 4 amends s. 421.08, F.S., to preclude a housing authority's power of eminent domain with respect to real property used to provide access to essential commercial goods and services. A housing authority's current power to develop, acquire, lease, construct, rehabilitate, manage, or operate multifamily or single-family residential projects is expanded to also include

²³ Section 420.0003(4)(c), F.S.

²⁴ *Id.*

²⁵ In addition to complying with applicable building, housing, and health codes, landlords must make reasonable provisions for exterminations, garbage removal and functioning facilities for heat during winter, running water, and hot water.

²⁶ In addition to complying with applicable building, housing, and health codes, tenants must keep premises clean and sanitary and may not destroy, deface, damage, impair, or remove any part of the premises.

commercial projects that allow access to essential goods and services for persons of low income residing in such residential projects.

This section of the bill also provides that any revenue received by a housing authority from the specified commercial projects must be used exclusively to upgrade and improve living conditions in the housing project or to preserve and rehabilitate public or affordable housing managed by the housing authority.

Section 5 amends s. 421.09, F.S., to make a conforming cross reference.

Section 6 reenacts and amends s. 421.21, F.S., to update and clarify language.

Section 7 amends s. 421.32, F.S., to update language and make conforming cross references.

Section 8 amends s. 422.02, F.S., to update the finding of necessity with regard to housing authorities, to include access of essential commercial goods and services necessary for daily living.

Section 9 amends s. 422.04, F.S., to expand state public bodies' authority to aid in the planning, undertaking, construction, or operation of certain projects furnished adjacent to or in connection with housing projects. The bill includes commercial projects that allow access to essential goods and services for persons of low income residing in housing projects among the allowable projects. Language is also updated and clarified.

Section 10 amends s. 423.01, F.S., to declare that facilities made available by housing authorities to provide access to essential goods and services necessary for daily living for persons residing in housing projects are a critical component of those housing projects and constitute a public use and a governmental function, and to expand the current housing authority declaration that related property and debentures may be exempted from tax. .

Section 11 amends s. 423.02, F.S., to expand the current housing authority exemption from all taxes and special assessments of the state or any city, town, county, or political subdivision of the state to also include all commercial projects that allow access to essential goods and services for persons of low income residing in housing projects.

Section 12 amends s. 420.507, F.S., to add subsection (48) which allows the FHFC to utilize up to 10 percent of its annual allocation of low-income housing tax credits, nontaxable revenue bonds, and State Apartment Incentive Loan Program (SAIL) funds appropriated by the Legislature and allocated via competitive solicitation for other proposals related to high priority affordable housing projects, including housing to support economic development and job creation, housing for veterans and their families and housing for other special needs populations.

Section 13 provides an effective date of July 1, 2012.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Section 18, Art. VII, State Constitution, provides that except upon approval by two-thirds of the members of each house, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989. The tax exemption provisions of this bill would reduce the revenue-raising authority of municipalities and counties and may require a two-thirds vote of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The provisions of this bill that amend the tax exemption provided to housing authorities by section 423.02, Florida Statutes, could be interpreted to allow tax exemptions to a commercial entity that locates on housing authority property. On February 17, 2012, the Revenue Estimating Conference reviewed a potential amendment to the bill to clarify that the bill is not intended to provide additional tax exemptions to the commercial activities. The Revenue Estimating Conference determined that with such amendment, the other provisions of this bill will reduce property taxes, beginning in FY 2014-2015, by approximately \$200,000 statewide.

B. Private Sector Impact:

Residents of public housing projects would experience indeterminate transportation savings if the commercial projects proposed by the bill are created on housing authority property.

Depending on the extent that the FHFC exercises its new authority to utilize funding for affordable housing, targeted residents may experience indeterminate costs savings related to increased housing access.

C. Government Sector Impact:

Housing authorities would experience an indeterminate reduction in maintenance costs as a result of the new revenue streams to preserve and rehabilitate public housing projects. Local government bodies would incur an indeterminate loss in potential tax revenues due to the exemption provisions of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. 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 January 30, 2012:

- Revises provisions for terminating a rental agreement that involves rent subsidies received from a local, state or national government.
- Allows the FHFC to utilize up to 10 percent of certain annual tax credits, revenue bonds, and loan funds for specified high priority affordable housing projects.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2012	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Finance and Tax (Norman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 583 - 600

and insert:

423.02 Housing projects exempted from taxes and assessments; payments in lieu thereof.—The housing projects, including all property of housing authorities used for or in connection therewith or appurtenant thereto, of housing authorities are ~~shall be~~ exempt from all taxes and special assessments of the state or any city, town, county, or political subdivision of the state. , ~~provided,~~ However, ~~that~~ in lieu of such taxes or special assessments, a housing authority may agree to make payments to any city, town, county, or political



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13 subdivision of the state for services, improvements, or
14 facilities furnished by such city, town, county, or political
15 subdivision for the benefit of a housing project owned by the
16 housing authority, but ~~in no event shall such payments may not~~
17 exceed the estimated cost ~~to such city, town, county or~~
18 ~~political subdivision~~ of the services, improvements, or
19 facilities to be ~~so~~ furnished by the city, town, county, or
20 political subdivision of the state. This section does not exempt
21 the activities or property of a person that provides essential
22 commercial goods and services; however, the real property of a
23 housing authority which is used to provide access to essential
24 commercial goods and services is exempt from ad valorem taxes
25 and special assessments.

26
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 Delete lines 36 - 40

30 and insert:

31 income; amending s. 423.02, F.S.; clarifying that
32 activities or property of certain persons is not
33 exempt from taxes and special assessments; providing
34 that real property of a housing authority which is
35 used to provide access to essential commercial goods
36 and services is exempt from ad valorem taxes and
37 special assessments; providing organizational and

By the Committee on Community Affairs; and Senator Norman

578-02604-12

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1 A bill to be entitled
 2 An act relating to public housing; amending s. 83.56,
 3 F.S.; revising provisions for terminating a rental
 4 agreement that involves rent subsidies received from a
 5 local, state, or national government; amending s.
 6 421.02, F.S.; revising a declaration of necessity;
 7 providing that access to essential commercial goods
 8 and services for persons of low income served by
 9 housing authorities is a public use; amending s.
 10 421.03, F.S.; reordering and revising definitions
 11 applicable to the Housing Authorities Law; revising
 12 the definition of the term "housing project"; defining
 13 the term "essential commercial goods and services";
 14 amending s. 421.08, F.S.; prohibiting the use of
 15 eminent domain for certain purposes; expanding certain
 16 powers of housing authorities to include certain
 17 commercial projects providing essential goods and
 18 services; providing for the use of revenues received
 19 from such projects; amending s. 421.09, F.S.;
 20 conforming a cross-reference; reenacting and amending
 21 s. 421.21, F.S., relating to tax exemptions applicable
 22 to housing authorities created pursuant to certain
 23 federal programs; amending s. 421.32, F.S.; conforming
 24 a cross-reference; amending s. 422.02, F.S.; revising
 25 a declaration of necessity; providing that there
 26 exists a shortage of access to essential commercial
 27 goods and services necessary for daily living for
 28 persons of low income; amending s. 422.04, F.S.;
 29 expanding certain powers of state public bodies to

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30 include certain commercial projects providing
 31 essential goods and services; amending s. 423.01,
 32 F.S.; revising and providing findings and declarations
 33 of property of tax exemption for housing authorities
 34 relating to access to essential commercial goods and
 35 services necessary for daily living for persons of low
 36 income; amending s. 423.02, F.S.; exempting certain
 37 commercial projects that allow access to essential
 38 goods and services for persons of low income residing
 39 in such housing projects from certain taxes and
 40 special assessments; providing organizational and
 41 editorial changes for purposes of clarifying various
 42 provisions; amending s. 420.507, F.S.; authorizing
 43 Florida Housing Finance Corporation to set aside a
 44 portion of its federal and state funding to fund
 45 housing for economic development initiatives,
 46 veterans' housing, and housing for other special needs
 47 populations; authorizing the use of competitive
 48 requests for proposal to fund projects; providing an
 49 effective date.

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

52
 53 Section 1. Subsection (5) of section 83.56, Florida
 54 Statutes, is amended to read:

55 83.56 Termination of rental agreement.—

56 (5) If the landlord accepts rent with actual knowledge of a
 57 noncompliance by the tenant or accepts performance by the tenant
 58 of any other provision of the rental agreement that is at

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59 variance with its provisions, or if the tenant pays rent with
 60 actual knowledge of a noncompliance by the landlord or accepts
 61 performance by the landlord of any other provision of the rental
 62 agreement that is at variance with its provisions, the landlord
 63 or tenant waives his or her right to terminate the rental
 64 agreement or to bring a civil action for that noncompliance, but
 65 not for any subsequent or continuing noncompliance. Any tenant
 66 who wishes to defend against an action by the landlord for
 67 possession of the unit for noncompliance of the rental agreement
 68 or of relevant statutes shall comply with the provisions in s.
 69 83.60(2). The court may not set a date for mediation or trial
 70 unless the provisions of s. 83.60(2) have been met, but shall
 71 enter a default judgment for removal of the tenant with a writ
 72 of possession to issue immediately if the tenant fails to comply
 73 with s. 83.60(2). This subsection does not apply to that portion
 74 of rent subsidies received from a local, state, or national
 75 government or an agency of local, state, or national government;
 76 however, waiver will occur if an action has not been instituted
 77 within 90 45 days after the landlord has actual knowledge of the
 78 noncompliance.

79 Section 2. Section 421.02, Florida Statutes, is amended to
 80 read:

81 421.02 Finding and declaration of necessity.—It is hereby
 82 declared that:

83 (1) There exist in the state insanitary or unsafe dwelling
 84 accommodations and that persons of low income are forced to
 85 reside in such insanitary or unsafe accommodations; that within
 86 the state there is a shortage of safe or sanitary dwelling
 87 accommodations available at rents which persons of low income

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88 can afford and that such persons are forced to occupy
 89 overcrowded and congested dwelling accommodations; that such the
 90 ~~aforsaid~~ conditions cause an increase in and spread of disease
 91 and crime and constitute a menace to the health, safety, morals,
 92 and welfare of the residents of the state and impair economic
 93 values; and that these conditions necessitate excessive and
 94 disproportionate expenditures of public funds for crime
 95 prevention and punishment, public health, welfare and safety,
 96 fire and accident protection, and other public services and
 97 facilities.

98 (2) Blighted areas in the state cannot be revitalized, nor
 99 can the shortage of safe and sanitary dwellings for persons of
 100 low income be relieved, solely through the operation of private
 101 enterprise.

102 (3) The clearance, replanning, and reconstruction of the
 103 areas in which insanitary or unsafe housing conditions exist,
 104 ~~and~~ the providing of safe and sanitary dwelling accommodations,
 105 and the access to essential commercial goods and services
 106 necessary for daily living for persons of low income, including
 107 the acquisition by a housing authority of property to be used
 108 for or in connection with housing projects or appurtenant
 109 thereto, are exclusively public uses and purposes for which
 110 public money may be spent and private property acquired and are
 111 governmental functions of public concern.

112 (4) An important public purpose is served by providing
 113 access to essential commercial goods and services necessary for
 114 daily living for persons served by public housing authorities as
 115 those persons often have limited transportation capacity and
 116 significant family demands. Issues such as limited

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117 transportation capacity and significant family demands
 118 complicate daily living and make access to essential commercial
 119 goods and services difficult.

120 ~~(5)(4)~~ The necessity in the public interest for the
 121 provisions hereinafter enacted, is hereby declared as a matter
 122 of legislative determination.

123 Section 3. Section 421.03, Florida Statutes, is amended to
 124 read:

125 421.03 Definitions.—~~As used~~ The following terms, wherever
 126 used or referred to in this part, except where the context
 127 clearly indicates otherwise, the term shall have the following
 128 respective meanings for the purposes of this part, unless a
 129 different meaning clearly appears from the context:

130 ~~(1)(6)~~ "Area of operation":

131 (a) In the case of a housing authority of a city having a
 132 population of less than 25,000, includes ~~shall include~~ such city
 133 and the area within 5 miles of its ~~the~~ territorial boundaries.
 134 ~~thereof, and~~

135 (b) In the case of a housing authority of a city having a
 136 population of 25,000 or more includes ~~shall include~~ such city
 137 and the area within 10 miles from its ~~the~~ territorial
 138 boundaries. ~~thereof, provided~~ However, ~~that~~ the area of
 139 operation of a housing authority of a ~~any~~ city may ~~shall~~ not
 140 include any area that ~~which~~ lies within the territorial
 141 boundaries of another ~~some other~~ city as herein defined, and may
 142 ~~further provided that the area of operation shall not extend~~
 143 ~~outside of~~ the boundaries of the county in which the city is
 144 located, and a ~~no~~ housing authority has no ~~shall have any~~ power
 145 or jurisdiction outside ~~of~~ the county in which the city is

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146 located.

147 ~~(2)(4)~~ "Authority" or "housing authority" means a ~~shall~~
 148 ~~mean any of the~~ public corporation ~~corporations~~ created pursuant
 149 to ~~by~~ s. 421.04.

150 ~~(3)(2)~~ "City" means ~~shall mean~~ any city or town of the
 151 state having a population of more than 2,500, according to the
 152 last preceding federal or state census. The term means ~~The~~
 153 ~~city~~ ~~shall mean~~ the particular city for which a particular
 154 housing authority is created.

155 ~~(4)(5)~~ "Clerk" means ~~shall mean~~ the clerk of the city or
 156 the officer of the city charged with the duties customarily
 157 imposed on the clerk ~~thereof~~.

158 ~~(5)(11)~~ "Debentures" means ~~shall mean~~ any notes, interim
 159 certificates, debentures, revenue certificates, or other
 160 obligations issued by an authority pursuant to this chapter.

161 (6) "Essential commercial goods and services" means goods,
 162 such as groceries and clothing, and services, such as child
 163 care, K-12 education, financial services, job training and
 164 placement, and laundry facilities, that are necessary for daily
 165 living and that may be difficult for persons of low income to
 166 access unless collocated with the housing project where they
 167 live and substantially serving persons of low income.

168 (7) "Federal Government" means ~~shall include~~ the United
 169 States Government, ~~the Federal Emergency Administration of~~
 170 Public Works or any department, commission, other agency, or
 171 other instrumentality thereof, ~~corporate or otherwise, of the~~
 172 United States.

173 ~~(8)(3)~~ "Governing body" means ~~shall mean~~ the city council,
 174 the commission, or other legislative body charged with governing

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175 the city, as the case may be.

176 (9) "Housing project" means ~~shall mean~~ any work or
177 undertaking:

178 (a) To demolish, clear, or remove buildings from any slum
179 area, ~~which, such work or undertaking~~ may embrace the adaption
180 of such area to public purposes, including parks or other
181 recreational or community purposes; ~~or~~

182 (b) To provide decent, safe, and sanitary urban or rural
183 dwellings, apartments, or other living accommodations for
184 persons of low income, ~~which, such work or undertaking~~ may
185 include buildings, land, equipment, facilities, and other real
186 or personal property for necessary, convenient, or desirable
187 appurtenances, streets, sewers, water service, parks, site
188 preparation, gardening, administrative, community, health,
189 recreational, educational, welfare, or other purposes; ~~or~~

190 (c) To provide access to essential commercial goods and
191 services; or

192 (d) ~~(e)~~ To accomplish a combination of the foregoing.

193
194 The term ~~"housing project"~~ also applies ~~may be applied~~ to the
195 planning of the buildings and improvements, the acquisition of
196 property, the demolition of existing structures, the
197 construction, reconstruction, alteration, and repair of the
198 improvements, and all other work in connection therewith.

199 (10) ~~(4)~~ "Mayor" means ~~shall mean~~ the mayor of the city or
200 the officer thereof charged with the duties customarily imposed
201 on the mayor or executive head of the city.

202 (11) ~~(13)~~ "Obligee of the authority" or "obligee" includes
203 ~~shall include~~ any holder of debentures, trustee or trustees for

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204 any such holders, or lessor demising to the authority property
205 used in connection with a housing project, or any assignee or
206 assignees of such lessor's interest or any part thereof, and the
207 Federal Government when it is a party to any contract with the
208 authority.

209 (12) ~~(10)~~ "Persons of low income" means ~~shall mean~~ persons
210 or families who lack the amount of income which is necessary, as
211 determined by the authority undertaking the housing project, to
212 enable them, without financial assistance, to live in decent,
213 safe and sanitary dwellings, without overcrowding.

214 (13) ~~(12)~~ "Real property" includes ~~shall include~~ all lands,
215 including improvements and fixtures thereon, and property of any
216 nature appurtenant thereto, or used in connection therewith, and
217 every estate, interest and right, legal or equitable, therein,
218 including terms for years and liens by way of judgment, mortgage
219 or otherwise and the indebtedness secured by such liens.

220 (14) ~~(8)~~ "Slum" means ~~shall mean~~ any area where dwellings
221 predominate which, by reason of dilapidation, overcrowding,
222 faulty arrangement or design, lack of ventilation, light or
223 sanitary facilities, or any combination of these factors, are
224 detrimental to safety, health and morals.

225 Section 4. Section 421.08, Florida Statutes, is amended to
226 read:

227 421.08 Powers of authority.—

228 (1) An authority shall constitute a public body corporate
229 and politic, exercising the public and essential governmental
230 functions set forth in this chapter, and having all the powers
231 necessary or convenient to carry out and effectuate the purpose
232 and provisions of this chapter, including the following powers

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233 in addition to others ~~herein~~ granted in this chapter:

234 (a)(1) To sue and be sued; to have a seal and to alter it
 235 ~~the same~~ at pleasure; to have perpetual succession; to make and
 236 execute contracts and other instruments necessary or convenient
 237 to the exercise of the powers of the authority; to appear in
 238 court through any of its officers, agents, or employees, for the
 239 exclusive purpose of filing eviction papers; and to make and
 240 from time to time amend and repeal bylaws, rules and
 241 regulations, not inconsistent with this chapter, to carry into
 242 effect the powers and purposes of the authority.

243 (b)(2) Within its area of operation, to prepare, carry out,
 244 acquire, lease, and operate housing projects ~~and~~ to provide for
 245 the construction, reconstruction, improvement, alteration, or
 246 repair of any housing project or any part thereof.

247 (c)(3) To arrange or contract for the furnishing by any
 248 person or agency, public or private, of services, privileges,
 249 works, or facilities for, or in connection with, a housing
 250 project or the occupants thereof, ~~provided, however, that~~

251 1. Notwithstanding any other power or provision in this
 252 chapter, the authority ~~may shall~~ not construct, lease, control,
 253 purchase, or otherwise establish, in connection with or as a
 254 part of any housing project or any other real or any other
 255 property under its control, any system, work, facilities,
 256 plants, or other equipment for the purpose of furnishing utility
 257 service of any kind to such projects or to any tenant or
 258 occupant thereof ~~if in the event that~~ a system, work, facility,
 259 plant, or other equipment for the furnishing of the same utility
 260 service is being ~~actually~~ operated by a municipality or private
 261 concern in the area of operation or the city or the territory

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262 immediately adjacent thereto; ~~provided, further, but this does~~
 263 ~~not that nothing herein shall be construed to~~ prohibit the
 264 construction or acquisition by the authority of any system,
 265 work, facilities, or other equipment for the sole and only
 266 purpose of receiving utility services from any such municipality
 267 or such private concern and then distributing such utility
 268 services to the project and to the tenants and occupants
 269 thereof, ~~and,~~

270 2. Notwithstanding ~~anything to the contrary contained in~~
 271 ~~this chapter or in~~ any other provision of law, the authority may
 272 ~~to~~ include, in any contract let in connection with a project,
 273 stipulations requiring that the contractor and any
 274 subcontractors comply with requirements as to minimum wages and
 275 maximum hours of labor, ~~and comply~~ with any conditions which the
 276 Federal Government may have attached to its financial aid of the
 277 project.

278 (d)(4) To lease or rent any dwellings, houses,
 279 accommodations, lands, buildings, structures, or facilities
 280 embraced in any housing project and, subject to the limitations
 281 contained in this chapter, to establish and revise the rents or
 282 charges therefor; to own, hold, and improve real or personal
 283 property; to purchase, lease, obtain options upon, acquire by
 284 gift, grant, bequest, devise, or otherwise any real or personal
 285 property or any interest therein; to acquire by the exercise of
 286 the power of eminent domain any real property, except real
 287 property to be used to provide access to essential commercial
 288 goods and services; to sell, lease, exchange, transfer, assign,
 289 pledge, or dispose of any real or personal property or any
 290 interest therein; to insure or provide for the insurance of any

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291 real or personal property or operations of the authority against
 292 any risks or hazards; and to procure or agree to the procurement
 293 of insurance or guarantees from the Federal Government of the
 294 payment of any such debts or parts thereof, whether or not
 295 incurred by the said authority, including the power to pay
 296 premiums on any such insurance.

297 ~~(e)(5)~~ To invest any funds held in reserves or sinking
 298 funds, or any funds not required for immediate disbursement, in
 299 property or securities in which savings banks may legally invest
 300 funds subject to their control and to purchase its debentures
 301 at a price not exceeding more than the principal amount thereof
 302 and accrued interest, with all debentures so purchased to be
 303 canceled.

304 ~~(f)(6)~~ Within its area of operation: to investigate into
 305 living, dwelling, and housing conditions and into the means and
 306 methods of improving such conditions; to determine where slum
 307 areas exist or where there is a shortage of decent, safe, and
 308 sanitary dwelling accommodations for persons of low income; to
 309 make studies and recommendations relating to the problem of
 310 clearing, replanning, and reconstruction of slum areas and the
 311 problem of providing dwelling accommodations for persons of low
 312 income; to administer fair housing ordinances and other
 313 ordinances as adopted by cities, counties, or other authorities
 314 who wish to contract for administrative services and to
 315 cooperate with the city, the county, or the state or any
 316 political subdivision thereof in action taken in connection with
 317 such problems; and to engage in research, studies, and
 318 experimentation on the subject of housing.

319 ~~(g)(7)~~ Acting through one or more commissioners or other

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320 person or persons designated by the authority: ~~to~~ to conduct
 321 examinations and investigations and to hear testimony and take
 322 proof under oath at public or private hearings on any matter
 323 material for its information; to administer oaths, issue
 324 subpoenas requiring the attendance of witnesses or the
 325 production of books and papers, and ~~to~~ issue commissions for the
 326 examination of witnesses who are outside ~~of~~ the state, ~~or~~ unable
 327 to attend before the authority, or excused from attendance; and
 328 to make available to appropriate agencies, including those
 329 charged with the duty of abating or requiring the correction of
 330 nuisances or like conditions, or of demolishing unsafe or
 331 insanitary structures within its area of operation, its findings
 332 and recommendations with regard to any building or property
 333 where conditions exist which are dangerous to the public health,
 334 morals, safety, or welfare.

335 ~~(h)(8)(a)~~ To organize for the purpose of creating a for-
 336 profit or not-for-profit corporation, limited liability company,
 337 or other similar business entity pursuant to all applicable laws
 338 of this state in which the housing authority may hold an
 339 ownership interest or participate in its governance in order to
 340 develop, acquire, lease, construct, rehabilitate, manage, or
 341 operate multifamily or single-family residential projects and
 342 commercial projects that allow access to essential goods and
 343 services for persons of low income residing in such residential
 344 projects.

345 1. These projects may include nonresidential uses and may
 346 use public and private funds to serve individuals or families
 347 who meet the applicable income requirements of the state or
 348 federal program involved; whose income does not exceed 150

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349 percent of the applicable median income for the area, as
 350 established by the United States Department of Housing and Urban
 351 Development; and who, in the determination of the housing
 352 authority, lack sufficient income or assets to enable them to
 353 purchase or rent a decent, safe, and sanitary dwelling. These
 354 corporations, limited liability companies, or other business
 355 entities may join partnerships, joint ventures, or limited
 356 liability companies pursuant to applicable laws or may otherwise
 357 engage with business entities in developing, acquiring, leasing,
 358 constructing, rehabilitating, managing, or operating such
 359 projects.

360 2.(b) The creation by a housing authority of such a
 361 corporation, limited liability company, or other business entity
 362 that is properly registered pursuant to all applicable laws
 363 before the effective date of this act is ratified and validated
 364 if the creation of such corporation, limited liability company,
 365 or other business entity would have been valid had this act been
 366 in effect at the time such corporation, limited liability
 367 company, or other business entity was created and registered.

368 3.(e) Proceedings or acts performed by a housing authority
 369 or a corporation, limited liability company, or other business
 370 entity authorized pursuant to subparagraph 2. paragraph (b) are
 371 ratified and validated if such proceedings or acts were in
 372 furtherance of the purposes set forth in this chapter and would
 373 have been valid had this act been in effect at the time such
 374 proceedings or acts were performed.

375 (i)(9) Notwithstanding s. 112.061, to the governing board
 376 ~~of an authority may~~ approve and implement policies for per diem,
 377 travel, and other expenses of its officials, officers, board

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378 members, employees, and authorized persons in a manner
 379 consistent with federal guidelines.

380 (j)(10) To exercise all or any part or combination of
 381 powers ~~herein~~ granted in this section. ~~No~~ Provisions of law
 382 ~~relating with respect~~ to acquisition, operation, or disposition
 383 of property by other public bodies do not apply ~~shall be~~
 384 ~~applicable~~ to an authority unless the Legislature ~~shall~~
 385 specifically states so ~~state~~.

386 (2) Any revenue received by a housing authority from
 387 commercial projects that provide access to essential goods and
 388 services necessary for daily living of persons residing in
 389 housing projects must be used exclusively to upgrade and improve
 390 living conditions in the housing project or to preserve and
 391 rehabilitate public or affordable housing managed by the housing
 392 authority.

393 Section 5. Subsection (2) of section 421.09, Florida
 394 Statutes, is amended to read:

395 421.09 Operation not for profit.—

396 (2) This section does not prohibit or restrict the
 397 activities or operations of a business entity created under s.
 398 421.08(1)(h) ~~421.08(8)~~.

399 Section 6. Section 421.21, Florida Statutes, is reenacted
 400 and amended to read:

401 421.21 Aid from Federal Government; tax exemptions.—

402 (1) In addition to the powers conferred upon an authority
 403 by other provisions of this chapter, an authority is empowered
 404 to borrow money or accept grants or other financial assistance
 405 from the Federal Government for or in aid of any housing project
 406 within its area of operation, to take over or lease or manage

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407 any housing project or undertaking constructed or owned by the
 408 Federal Government, and to these ends, to comply with such
 409 conditions and enter into such trust indentures, leases or
 410 agreements as may be necessary, convenient or desirable. It is
 411 the purpose and intent of this chapter to authorize every
 412 authority to do any and all things necessary or desirable to
 413 secure the financial aid or cooperation of the Federal
 414 Government in the undertaking, construction, maintenance, or
 415 operation of any housing project by such authority.

416 (2) In addition to the powers conferred upon an authority
 417 by subsection (1) and other provisions of this chapter, an
 418 authority is empowered to borrow money or accept grants or other
 419 financial assistance from the Federal Government under s. 202 of
 420 the Housing Act of 1959 (Pub. L. No. 86-372) or any law or
 421 program of the United States Department of Housing and Urban
 422 Development, which provides for direct federal loans in the
 423 maximum amount, as defined therein, for the purpose of assisting
 424 certain nonprofit corporations to provide housing and related
 425 facilities for elderly families and elderly persons.

426 (a) Housing authorities created under this section are
 427 authorized to execute mortgages, notes, bills, or other forms of
 428 indebtedness together with any agreements, contracts, or other
 429 instruments required by the United States Department of Housing
 430 and Urban Development in connection with loans made for the
 431 purposes set forth in this subsection.

432 (b) This provision relating to housing facilities for the
 433 elderly is cumulative and in addition to the powers given to
 434 housing authorities under this chapter. All powers granted
 435 generally by law to housing authorities in Florida relating to

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436 issuance of trust indentures, debentures, and other methods of
 437 raising capital ~~shall~~ apply also to housing authorities in
 438 connection with their participation in programs of the United
 439 States Department of Housing and Urban Development.

440 (3) It is the legislative intent that the tax exemption of
 441 housing authorities provided by chapter 423, ~~shall~~ specifically
 442 applies ~~apply~~ to any housing authority created under this
 443 section.

444 Section 7. Section 421.32, Florida Statutes, is amended to
 445 read:

446 421.32 Rural housing projects.—County housing authorities
 447 and regional housing authorities are specifically empowered and
 448 authorized to borrow money, accept grants, and exercise their
 449 other powers to provide housing for farmers of low income and
 450 domestic farm labor as defined in s. 514 of the Federal Housing
 451 Act of 1949. In connection with such projects, any such housing
 452 authority may enter into such leases or purchase agreements,
 453 accept such conveyances and rent or sell dwellings forming part
 454 of such projects to or for farmers of low income, as such
 455 housing authority deems necessary in order to ensure ~~assure~~ the
 456 achievement of the objectives of this law. Such leases,
 457 agreements, or conveyances may include such covenants as the
 458 housing authority deems appropriate regarding such dwellings and
 459 the tracts of land described in any such instrument, which
 460 covenants shall be deemed to run with the land where the housing
 461 authority deems it necessary and the parties to such instrument
 462 so stipulate. In providing housing for farmers of low income,
 463 county housing authorities and regional housing authorities are
 464 ~~shall~~ not be subject to the limitations provided in ss.

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465 421.08(1)(c) ~~421.08(3)~~ and 421.10(3). ~~Nothing contained in~~ This
466 section ~~may not shall~~ be construed as limiting any other powers
467 of any housing authority.

468 Section 8. Section 422.02, Florida Statutes, is amended to
469 read:

470 422.02 Finding and declaration of necessity.—It has been
471 found and declared in the Housing Authorities Law that there
472 exist in the state unsafe and insanitary housing conditions and
473 a shortage of safe and sanitary dwelling accommodations and
474 access to essential commercial goods and services necessary for
475 daily living for persons of low income; that these conditions
476 necessitate excessive and disproportionate expenditures of
477 public funds for crime prevention and punishment, public health,
478 welfare and safety, fire and accident protection, and other
479 public services and facilities; and that the public interest
480 requires the remedying of these conditions. It is found and
481 declared that the assistance herein provided for the remedying
482 of the conditions set forth in the Housing Authorities Law
483 constitutes a public use and purpose and an essential
484 governmental function for which public moneys may be spent and
485 other aid given; that it is a proper public purpose for any
486 state public body to aid any housing authority operating within
487 its boundaries or jurisdiction or any housing project located
488 therein, as the state public body derives immediate benefits and
489 advantages from such an authority or project; and that the
490 provisions hereinafter enacted are necessary in the public
491 interest.

492 Section 9. Section 422.04, Florida Statutes, is amended to
493 read:

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494 422.04 Cooperation in undertaking housing projects.—

495 (1) For the purpose of aiding and cooperating in the
496 planning, undertaking, construction, or operation of housing
497 projects located within the area in which it is authorized to
498 act, any state public body may, upon such terms, with or without
499 consideration, as it may determine:

500 (a) Dedicate, sell, convey, or lease any of its property to
501 a housing authority or the Federal Government.†

502 (b) Cause parks;† playgrounds;† recreational, community,
503 educational, water, sewer, or drainage facilities; commercial
504 projects that allow access to essential goods and services for
505 persons of low income residing in housing projects; or any other
506 works, ~~which~~ it is otherwise empowered to undertake,† to be
507 furnished adjacent to or in connection with housing projects.†

508 (c) Furnish, dedicate, close, pave, install, grade,
509 regrade, plan, or replan streets, roads, roadways, alleys,
510 sidewalks, or other places ~~which~~ it is otherwise empowered to
511 undertake.†

512 (d) Plan or replan, zone or rezone any part of such state
513 public body; make exceptions from building regulations and
514 ordinances; and, with respect to any city or town, ~~also may~~
515 change its map.†

516 (e) Enter into agreements, which may extend over any
517 period, notwithstanding any provision or rule of law to the
518 contrary, with a housing authority or the Federal Government
519 respecting action to be taken by such state public body pursuant
520 to any of the powers granted by this chapter.†

521 (f) Do any and all things, necessary, or convenient to aid
522 and cooperate in the planning, undertaking, construction, or

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523 operation of such housing projects.~~†~~

524 (g) Purchase or legally invest in any of the debentures of
525 a housing authority and exercise all of the rights of any holder
526 of such debentures.~~†~~

527 (h) Not require any changes to be made in a housing project
528 or the manner of its construction or take any other action
529 relating to such construction with respect to any housing
530 project which a housing authority has acquired or taken over
531 from the Federal Government and which the housing authority by
532 resolution has found and declared to have been constructed in a
533 manner that will promote the public interest and afford
534 necessary safety, sanitation, and other protection.~~†~~ ~~no state~~
535 ~~public body shall require any changes to be made in the housing~~
536 ~~project or the manner of its construction or take any other~~
537 ~~action relating to such construction.~~

538 (i) Incur the entire expense of ~~In connection with~~ any
539 public improvements made by the a state public body in
540 exercising the powers herein granted, ~~such state public body may~~
541 ~~incur the entire expense thereof.~~

542 (2) Any law or statute to the contrary notwithstanding, any
543 sale, conveyance, lease, or agreement provided for in this
544 section may be made by a state public body without appraisal,
545 public notice, advertisement, or public bidding.

546 Section 10. Section 423.01, Florida Statutes, is amended to
547 read:

548 423.01 Finding and declaration of property of tax exemption
549 for housing authorities.—It has been found and declared in the
550 Housing Authorities Law and the Housing Cooperation Law that:

551 (1) There exist in the state housing conditions that ~~which~~

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552 constitute a menace to the health, safety, morals, and welfare
553 of the residents of the state;

554 (2) These conditions necessitate excessive and
555 disproportionate expenditures of public funds for crime
556 prevention and punishment, public health, welfare and safety,
557 fire and accident prevention, and other public services and
558 facilities;

559 (3) The public interest requires the remedying of these
560 conditions by the creation of housing authorities to undertake
561 projects for slum clearance and for providing safe and sanitary
562 dwelling accommodations and access to essential commercial goods
563 and services necessary for daily living for persons who lack
564 sufficient income to enable them to live in decent, safe, and
565 sanitary dwellings without overcrowding; ~~and~~

566 (4) Facilities made available by housing authorities to
567 provide access to essential goods and services necessary for
568 daily living for persons residing in housing projects are a
569 critical component of those housing projects and constitute a
570 public use and a governmental function; and

571 (5)~~(4)~~ Such housing projects, including all property of a
572 housing authority used for or in connection therewith or
573 appurtenant thereto and all property used to provide access to
574 essential goods and services necessary for daily living for
575 persons residing in such housing projects, are exclusively for
576 public uses and municipal purposes and not for profit, and are
577 governmental functions of state concern. As a matter of
578 legislative determination, it is found and declared that the
579 property and debentures of a housing authority are of such
580 character as may be exempt from taxation.

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581 Section 11. Section 423.02, Florida Statutes, is amended to
582 read:

583 423.02 Housing projects exempted from taxes and
584 assessments; payments in lieu thereof.—The housing projects,
585 including all property of housing authorities used for or in
586 connection therewith or appurtenant thereto and all commercial
587 projects that allow access to essential goods and services for
588 persons of low income residing in such housing projects, of
589 housing authorities shall be exempt from all taxes and special
590 assessments of the state or any city, town, county, or political
591 subdivision of the state, ~~provided~~. However, ~~that~~ in lieu of
592 such taxes or special assessments, a housing authority may agree
593 to make payments to any city, town, county, or political
594 subdivision of the state for services, improvements, or
595 facilities furnished by such city, town, county, or political
596 subdivision for the benefit of a housing project owned by the
597 housing authority, but ~~in no event shall~~ such payments may not
598 exceed the estimated cost to such city, town, county, or
599 political subdivision of the services, improvements, or
600 facilities to be so furnished.

601 Section 12. Subsection (48) is added to section 420.507,
602 Florida Statutes, to read:

603 420.507 Powers of the corporation.—The corporation shall
604 have all the powers necessary or convenient to carry out and
605 effectuate the purposes and provisions of this part, including
606 the following powers which are in addition to all other powers
607 granted by other provisions of this part:

608 (48) To utilize up to 10 percent of its annual allocation
609 of low-income housing tax credits, allocation of nontaxable

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610 revenue bonds, and State Apartment Incentive Loan Program funds
611 appropriated by the Legislature and available to allocate by
612 request for proposals or other competitive solicitation funding
613 for high-priority affordable housing projects, such as housing
614 to support economic development and job creation initiatives,
615 housing for veterans and their families, and other special needs
616 populations in communities throughout the state as determined by
617 the corporation on an annual basis.

618 Section 13. This act shall take effect July 1, 2012.

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 Budget Subcommittee on Finance and Tax

BILL: CS/SB 1384

INTRODUCER: Budget Subcommittee on Finance and Tax; and Senator Bennett

SUBJECT: Taxes

DATE: February 23, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Abrams	Buford	TR	Favorable
2.	Cote	Diez-Arguelles	BFT	Pre-meeting
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 1384 lowers the weight requirement for aircraft to receive certain sales tax exemptions from more than 15,000 pounds maximum certified takeoff weight to more than 2,000 pounds maximum certified takeoff weight. These exemptions apply to aircraft repair and maintenance labor charges and equipment, parts and replacement engines used in aircraft repair and maintenance. The CS does not affect the current exemptions for qualified aircrafts or rotary wing aircraft.

This CS also provides an exemption from intangible tax for lessees of governmental property that perform a governmental, municipal or public purpose function.

This CS substantially amends sections 196.199 and 212.08, Florida Statutes.

II. Present Situation:

Sales Tax

Section 212.08, F.S., provides a long list of exemptions from sales, rental, use, consumption, distribution, and storage taxes. The list includes several aviation-related exemptions. Some of these exemptions are based on the type of aircraft, while others are based on whether, or how long, the aircraft stays in Florida. Two of the aircraft exemptions delineated in this section are for:

- Aircraft repair and maintenance labor charges – For qualified aircraft,¹ for aircraft of more than 15,000 pounds maximum certified takeoff weight, and for rotary wing aircraft of more than 10,000 pounds maximum certified takeoff weight;² and
- Equipment, parts, and replacement engines used in aircraft repair and maintenance – For qualified aircraft, for aircraft of more than 15,000 pounds maximum certified takeoff weight, and for rotary wing aircraft of more than 10,300 pounds maximum certified takeoff weight.³

In order to receive these exemptions, a qualifying entity must submit an affidavit to the seller or repairer, or have the seller or repairer document why the exemption on the repair or replacement engine, equipment or parts is applicable.⁴ No consumer certificate of exemption is required.⁵

Government Property Tax

Florida law generally exempts government property from ad valorem taxation.⁶

Portions of governmental property may be leased to private parties. In instances where the government leases property to a private party, the lease is called a “governmental leasehold” and is subject to tax as “intangible personal property.”⁷

Effective January 1, 2007, ch. 2006-312, L.O F., repealed the annual tax on intangible personal property such as stocks, bonds, mutual funds, money market funds, and unsecured notes.⁸ The repeal did not include the following two taxes:

¹ “Qualified aircraft” means any aircraft having a maximum certified takeoff weight of less than 10,000 pounds and equipped with twin turbofan engines that meet Stage IV noise requirements that is used by a business operating as an on-demand air carrier under Federal Aviation Administration Regulation Title 14, chapter I, part 135, Code of Federal Regulations, that owns or leases and operates a fleet of at least 25 of such aircraft in this state. See Section 212.02(33), F.S.

² Section 212.08(7)(ee), F.S.; Charges for parts and equipment furnished in connection with such labor charges are taxable, except as otherwise exempt.

³ Section 212.08(7)(rr), F.S.

⁴ Email from Mark Zych, Florida Department of Revenue Director of Technical Assistance & Dispute Resolution (January 25, 2012) (on file with Senate Transportation Committee).

⁵ *Id.*

⁶ See s. 196.199, F.S. Subject to certain conditions, property of the United States, property of Florida and property of political subdivisions and municipalities of the state are exempt from ad valorem taxation.

⁷ See s. 196.199(2)(b), F.S. Section 192.001 (11)(b) defines “intangible personal property” as money, all evidences of debt owed to the taxpayer, all evidences of ownership in a corporation or other business organization having multiple owners, and all other forms of property where value is based upon that which the property represents rather than its own intrinsic value.

- The nonrecurring tax on a note, bond, or other obligation for payment of money that is secured by a mortgage deed or other lien on real property. Taxpayers who are lending money secured by a mortgage on Florida real property must still pay the nonrecurring intangible tax. These payments are generally made to the Clerk of Court in the county where the instrument is recorded.⁹ The proceeds of this tax are deposited into the General Fund.
- The recurring tax on the lease of real property owned by a government and leased to a non-governmental entity when rental payments are due. Taxpayers that lease property from a governmental entity must still file and pay the governmental leasehold intangible tax annually, if the amount of tax owed before discount is \$60 or more.¹⁰ The proceeds of this tax are returned to the local school board for the county in which the property subject to the leasehold is situated.

In Boca Airport, Inc. v. Florida Department of Revenue, 56 So. 3d 140 (Fla. 4th DCA 2011), the court determined that the intangible tax on governmental leaseholds applied to fixed base operators¹¹ leasing airport property from the county.

III. Effect of Proposed Changes:

Section 1 amends s. 196.199, F.S., to provide that lessees of governmental property that perform a governmental, municipal or public function are exempt from the intangible tax.

Section 2 amends s. 212.08, F.S., lowering the weight requirement for aircraft to receive the sales tax exemptions under s. 212.08 (ee) and (rr) from more than 15,000 pounds maximum certified takeoff weight to more than 2,000 pounds maximum certified takeoff weight. These exemptions apply to aircraft repair and maintenance labor charges and equipment, parts and replacement engines used in aircraft repair and maintenance. The CS does not affect the current exemptions for qualified aircrafts or rotary wing aircraft.

Section 3 provides that the amendment to s. 196.199, F.S., is effective upon becoming a law and applies retroactively to all leases of governmental property in existence as of January 1, 2011 but does not create a right to a refund.

Section 4 provides that except as otherwise expressly provided in this act and except for this section, which take effect upon becoming a law, this act shall take effect July 1, 2012.

⁸ Florida Department of Revenue, *2007 Tax Information Publication #07C02-01* (Jan 2, 2007), available at <http://dor.myflorida.com/dor/tips/tip07c02-01.html> (last visited Feb. 14, 2012).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Fixed base operators provide goods and services to the general aviation public by offering hanger space for private and commercial aircraft, aviation fuel, aircraft repairs, tie-down services, and amenities for pilots and the general public in the form of food, beverages, ground transportation, and reservations for rental cars and lodging.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, s. 18 of the Florida Constitution, excuses counties and municipalities from complying with laws requiring them to spend funds or to take an action unless certain conditions are met.

Subsection (b) of the provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce county or municipal aggregate revenue generating authority as it existed on February 1, 1989. The exception to this prohibition is if the Legislature passes such a law by two-thirds of the membership of each chamber.

Subsection (d) provides an exemption from this prohibition. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 (which is \$1.88 million for FY 2012-13), are exempt.

The Revenue Estimating Conference (REC) estimated that the provisions of this CS related to lowering the weight requirement for certain aircraft to receive sales tax exemptions will reduce the revenues received by cities and counties from local option sales taxes by \$1 million annually.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

The Revenue Estimating Conference estimates that lowering the weight requirement for certain aircraft to receive sales tax exemptions will decrease general revenue by \$9.2 million and local government revenues by \$2.1 million in FY2012-13 with a \$10 million negative recurring impact to general revenue and a \$2.3 million negative recurring impact to local governments.

The REC estimates the impact of the exemption from intangibles tax for lessees of governmental property will have a negative recurring impact of \$0.9 million to local governments.

B. Private Sector Impact:

Entities owning aircrafts over 2,000 pounds maximum certified takeoff weight will no longer need to pay any taxes on labor, replacement engines, parts, and equipment.

Due to the decrease in net costs of aircraft repairs and replacement parts resulting from this tax exemption, this CS could potentially encourage owners and purchasers of currently non-exempt aircrafts to repair and replace parts of their aircrafts in Florida. Thus, the CS could have a positive impact on jobs and the workforce in Florida.

C. Government Sector Impact:

According to the Department of Revenue, the CS will require a Tax Information Publication posted on the Internet at no additional cost.¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Finance and Tax on February 23, 2012:**

This committee substitute provides an exemption from intangible tax for lessees of governmental property that perform a governmental, municipal or public purpose function.

B. Amendments:

None.

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

¹² Florida Department of Revenue, *2012 SB 1384 Analysis* (January 19, 2012) (On file with Senate Transportation Committee).



343760

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2012	.	
	.	
	.	
	.	

The Committee on Budget Subcommittee on Finance and Tax (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (2) of section 196.199, Florida Statutes, is amended to read:

196.199 Government property exemption.—

(2) Property owned by the following governmental units but used by nongovernmental lessees shall only be exempt from taxation under the following conditions:

(a) Leasehold interests in property of the United States, of the state or any of its several political subdivisions, or of



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13 municipalities, agencies, authorities, and other public bodies
14 corporate of the state shall be exempt from ad valorem taxation
15 and the intangible tax referenced in paragraph (b) only when the
16 lessee serves or performs a governmental, municipal, or public
17 purpose or function, as defined in s. 196.012(6). In all such
18 cases, all other interests in the leased property shall also be
19 exempt from ad valorem taxation. However, a leasehold interest
20 in property of the state may not be exempted from ad valorem
21 taxation when a nongovernmental lessee uses such property for
22 the operation of a multipurpose hazardous waste treatment
23 facility.

24 Section 2. Paragraphs (ee) and (rr) of subsection (7) of
25 section 212.08, Florida Statutes, are amended to read:

26 212.08 Sales, rental, use, consumption, distribution, and
27 storage tax; specified exemptions.—The sale at retail, the
28 rental, the use, the consumption, the distribution, and the
29 storage to be used or consumed in this state of the following
30 are hereby specifically exempt from the tax imposed by this
31 chapter.

32 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
33 entity by this chapter do not inure to any transaction that is
34 otherwise taxable under this chapter when payment is made by a
35 representative or employee of the entity by any means,
36 including, but not limited to, cash, check, or credit card, even
37 when that representative or employee is subsequently reimbursed
38 by the entity. In addition, exemptions provided to any entity by
39 this subsection do not inure to any transaction that is
40 otherwise taxable under this chapter unless the entity has
41 obtained a sales tax exemption certificate from the department



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

50 (ee) *Aircraft repair and maintenance labor charges.*—There
51 shall be exempt from the tax imposed by this chapter all labor
52 charges for the repair and maintenance of qualified aircraft,
53 aircraft of more than 2,000 ~~15,000~~ pounds maximum certified
54 takeoff weight, and rotary wing aircraft of more than 10,000
55 pounds maximum certified takeoff weight. Except as otherwise
56 provided in this chapter, charges for parts and equipment
57 furnished in connection with such labor charges are taxable.

58 (rr) *Equipment used in aircraft repair and maintenance.*—
59 There shall be exempt from the tax imposed by this chapter
60 replacement engines, parts, and equipment used in the repair or
61 maintenance of qualified aircraft, aircraft of more than 2,000
62 ~~15,000~~ pounds maximum certified takeoff weight, and rotary wing
63 aircraft of more than 10,300 pounds maximum certified takeoff
64 weight, when such parts or equipment are installed on such
65 aircraft that is being repaired or maintained in this state.

66 Section 3. The amendment to s. 196.199, Florida Statutes,
67 made by this act shall take effect upon this act becoming a law
68 and shall apply retroactively to all governmental leaseholds in
69 existence as of January 1, 2011. This section is intended to be
70 remedial in nature and does not create a right to a refund or



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71 require any governmental entity to refund any tax, penalty, or
72 interest remitted to the Department of Revenue before the
73 effective date of this act.

74 Section 4. Except as otherwise expressly provided in this
75 act and except for this section, which shall take effect upon
76 this act becoming a law, this act shall take effect July 1,
77 2012.

78
79 ===== T I T L E A M E N D M E N T =====

80 And the title is amended as follows:

81 Delete everything before the enacting clause
82 and insert:

83 A bill to be entitled
84 An act relating to taxes; amending s. 196.199, F.S.;
85 providing an exemption from intangible tax for lessees
86 performing a governmental, municipal, or public
87 purpose or function; amending s. 212.08, F.S.;
88 expanding exemptions from the sales and use tax on
89 labor and parts and equipment used in aircraft repairs
90 on certain aircraft weighing more than 2,000 pounds;
91 providing for retroactive application of certain
92 provisions of the act and clarifying that such
93 provisions are remedial and do not create a right to a
94 refund; providing effective dates.

By Senator Bennett

21-01060-12

20121384__

A bill to be entitled

An act relating to taxes; amending s. 212.08, F.S.;
expanding exemptions from the sales and use tax on
labor and parts and equipment used in aircraft repairs
on certain aircraft weighing more than 2,000 pounds;
providing an effective date.

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

Section 1. Paragraphs (ee) and (rr) of subsection (7) of
section 212.08, Florida Statutes, are amended to read:

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

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
entity by this chapter do not inure to any transaction that is
otherwise taxable under this chapter when payment is made by a
representative or employee of the entity by any means,
including, but not limited to, cash, check, or credit card, even
when that representative or employee is subsequently reimbursed
by the entity. In addition, exemptions provided to any entity by
this subsection do not inure to any transaction that is
otherwise taxable under this chapter unless the entity has
obtained a sales tax exemption certificate from the department
or the entity obtains or provides other documentation as
required by the department. Eligible purchases or leases made

Page 1 of 2

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

21-01060-12

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with such a certificate must be in strict compliance with this
subsection and departmental rules, and any person who makes an
exempt purchase with a certificate that is not in strict
compliance with this subsection and the rules is liable for and
shall pay the tax. The department may adopt rules to administer
this subsection.

(ee) *Aircraft repair and maintenance labor charges.*—There
shall be exempt from the tax imposed by this chapter all labor
charges for the repair and maintenance of qualified aircraft,
aircraft of more than 2,000 ~~15,000~~ pounds maximum certified
takeoff weight, and rotary wing aircraft of more than 10,000
pounds maximum certified takeoff weight. Except as otherwise
provided in this chapter, charges for parts and equipment
furnished in connection with such labor charges are taxable.

(rr) *Equipment used in aircraft repair and maintenance.*—
There shall be exempt from the tax imposed by this chapter
replacement engines, parts, and equipment used in the repair or
maintenance of qualified aircraft, aircraft of more than 2,000
~~15,000~~ pounds maximum certified takeoff weight, and rotary wing
aircraft of more than 10,300 pounds maximum certified takeoff
weight, when such parts or equipment are installed on such
aircraft that is being repaired or maintained in this state.

Section 2. This act shall take effect July 1, 2012.

Page 2 of 2

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/23/2

Meeting Date

Topic TAXES

Bill Number SB 1384 (if applicable)

Name MARK KIMBERLING

Amendment Barcode (if applicable)

Job Title

Address 421 AVIATION WAY Street

Phone

FREDERICK MD 21043 City State Zip

E-mail

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

Representing AIRCRAFT OWNERS AND PILOTS ASSOCIATION

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

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/23/12
Meeting Date

Topic Taxes

Bill Number SB 1384
(if applicable)

Name Eric Prutsman

Amendment Barcode _____
(if applicable)

Job Title _____

Address P.O. Box 10448
Street

Phone _____

Tallahassee FL 32309
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Aviation Trades Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Budget, *Chair*
Rules, *Vice Chair*
Agriculture
Banking and Insurance
Budget - Subcommittee on Finance and Tax
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Education Pre-K - 12
Rules - Subcommittee on Ethics and Elections

JOINT COMMITTEE:

Legislative Budget Commission, *Chair*

SENATOR JD ALEXANDER

17th District

February 22, 2012

Senator Jim Norman, Chair
Committee On Budget Subcommittee on Finance and Tax
214 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Senator Norman,

I respectfully request permission to be absent from the Committee on Budget Subcommittee on Finance and Tax, tomorrow, February 23, 2012. I will not be able to attend this meeting.

Thank you for your approval in this request.

Sincerely,

A handwritten signature in black ink, appearing to read "JD Alexander".

JD Alexander
Senator, District 17

Xc: Jose Diez-Arguelles

A large, stylized handwritten signature in black ink, appearing to read "Jim Norman".

REPLY TO:

- 201 Central Avenue West, Suite 115, City Hall Complex, Lake Wales, Florida 33853 (863) 679-4847
- 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5044

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

CourtSmart Tag Report

Room: SB 301
Caption: Senate Budget Subcommittee on Finance and Tax Meeting

Case:

Type:
Judge:

Started: 2/23/2012 8:03:31 AM
Ends: 2/23/2012 9:13:08 AM
Length: 01:09:38

8:03:37 AM Sen. Norman - Meeting called to order
8:03:39 AM Roll Call
8:03:39 AM Sen. Norman
8:03:48 AM Sen. Norman - CS/SJR 312 and CS/SJR 314 Temporarily Postponed
8:03:59 AM Sen. Bennett - SB 294
8:04:14 AM Sen. Norman
8:04:43 AM Sen. Bennett waives close
8:04:57 AM Sen. Norman
8:04:59 AM Roll call on SB 294
8:05:01 AM Sen. Norman - SB 294 reported favorably
8:05:09 AM Sen Bennett - SB 458 - Uniform Fraudulent Transfer Act
8:05:21 AM Sen. Norman
8:06:59 AM Sen. Sachs
8:07:09 AM Sen. Bennett
8:07:15 AM Sen. Norman
8:08:06 AM Michael Sheedy, Associate Director, Florida Catholic Conference, waives in support
8:08:15 AM Sen. Norman
8:08:20 AM Stephania Feltz, Executive Director, Girls, Inc., waives in support
8:08:22 AM Sen. Norman
8:08:34 AM Greg Melchior, Interim General Counsel, Office of Financial Regulation (OFR)
8:08:43 AM Sen. Norman
8:10:50 AM Sen. Sachs
8:10:57 AM Greg Melchior
8:11:33 AM Sen. Sachs
8:12:10 AM Greg Melchior
8:12:32 AM Sen. Norman
8:13:50 AM Sen. Margolis
8:13:59 AM Sen. Norman
8:15:01 AM Sen. Bennett
8:15:10 AM Sen. Norman
8:16:04 AM roll call on CS/SB458
8:16:09 AM Sen. Norman - CS/SB 458 reported favorably
8:16:17 AM Sen. Bennett - SB 1384 - Taxes
8:16:27 AM Sen. Bennett - Late filed strike-all amendment 343760
8:16:31 AM Sen. Norman
8:17:27 AM Eric Prutsman, Florida Aviation Trades Association waives in support
8:18:11 AM Sen. Norman
8:18:16 AM Mark Kimberling, Aircraft Owners and Pilots Association, waives in support
8:18:17 AM Sen. Norman
8:18:25 AM roll call CS/SB 1384
8:18:41 AM Sen. Norman - SB 1384 reported favorably as a committee substitute
8:19:02 AM Sen. Siplin - SB 592 - Tax Exemptions/Fresh Fruit and Vegetable Packinghouses
8:19:05 AM Sen. Norman
8:20:17 AM Late Filed Amendment 358890
8:20:21 AM Sen. Siplin
8:20:26 AM Sen. Altman withdraws amendment
8:20:57 AM Sen. Siplin
8:21:00 AM Sen. Norman
8:21:04 AM Sen. Sachs
8:21:12 AM Sen. Siplin
8:21:35 AM Sen. Norman

8:22:22 AM Ben Parks, Legislative Director, Florida Farm Bureau waives in support
8:22:28 AM Sen. Norman
8:22:36 AM Doug Bournique, Ex. Vice President, Indian River Citrus League
8:23:56 AM Sen. Norman
8:23:59 AM Richard Kiinney, General Manager, Florida Citrus Packing waives in support
8:24:03 AM Sen., Norman
8:24:08 AM Sen. Altman
8:24:30 AM Sen. Sachs
8:25:17 AM Sen. Norman
8:25:20 AM Sen. Siplin
8:25:43 AM Sen. Norman
8:25:46 AM Roll Call on SB 592
8:25:56 AM Sen. Norman SB 592 reported favorably
8:25:57 AM Sen. Siplin
8:26:04 AM Sen. Norman
8:26:12 AM Sen. Flores - CS/SB 750 - Bonds
8:26:37 AM Sen. Norman
8:26:42 AM Sen. Margolis
8:26:44 AM Sen. Flores
8:26:53 AM Sen. Margolis
8:26:57 AM Sen. Norman
8:27:07 AM Sen. Flores
8:27:08 AM Sen. Norman
8:27:11 AM Roll Call - CS/SB 750
8:27:30 AM Sen. Norman CS/SB 750 reported favorably
8:27:51 AM Sen. Detert SJR 1064 - Tangible Personal Property Tax
8:28:27 AM Sen. Norman Late Filed Amendment 858192
8:28:33 AM Sen. Altman
8:28:37 AM Sen. Norman amendment introduced
8:28:38 AM Sen. Detert
8:30:02 AM Sen. Norman - amendment adopted
8:30:34 AM Amber Hughes, Legislative Advocate, Florida League of Cities
8:31:06 AM Sen. Sachs
8:31:19 AM Amber Hughes
8:31:56 AM Sen. Sachs
8:32:11 AM Amber Hughes
8:32:28 AM Sen. Norman
8:32:36 AM Davin Suggs, Senior Legislative Advocate, Florida Association of Counties
8:33:35 AM Sen. Norman
8:33:37 AM Christian Weiss, Policy Coordinator, Governor's Office
8:33:45 AM Sen. Norman
8:33:52 AM Nancy Stephens, Executive Director, Manufacturers Association of Florida waives in support
8:33:55 AM Sen. Norman
8:34:04 AM Bill Herrle, Executive Director, National Federation of Independent Business
8:34:37 AM Sen. Norman
8:34:40 AM Vicki Weber, Florida Chamber of Commerce waives in support
8:34:43 AM Sen. Norman
8:34:46 AM Jose Gonzalez, Vice President Government Affairs, Associated Industries of Florida waives in support
8:34:48 AM Sen. Norman
8:35:06 AM Chris Doolin, Consultant, Small County Coalition
8:36:23 AM Sen. Norman
8:36:27 AM Frank Meiners, Associated Industries of Florida, waivers in support
8:36:31 AM Sen. Norman amendment adopted
8:36:44 AM Sen. Altman
8:37:26 AM Sen. Norman
8:37:30 AM Sen. Detert
8:38:38 AM Sen. Norman
8:38:56 AM Roll Call CS/SJR 1064
8:39:07 AM Sen. Norman CS/SJR 1064 reported favorably as a committee substitute
8:39:17 AM Sen. Detert SB 1062 - Tangible Personal Property Taxes
8:39:39 AM Sen. Norman
8:39:51 AM Roll Call on SB 1062

8:40:02 AM Sen. Norman SB 1062 reported favorably
8:40:13 AM Sen. Bogdanoff SB 982 - Tax on Sales, Use, and Other Transactions
8:40:38 AM Sen. Norman
8:40:46 AM Sen. Bogdanoff, amendment 825978
8:40:53 AM Sen. Norman amendment introduced
8:40:59 AM Sen. Sachs
8:41:23 AM Sen. Bogdanoff
8:41:56 AM Sen. Sachs
8:42:13 AM Sen. Bogdanoff
8:42:45 AM Sen. Norman amendment adopted
8:42:58 AM Jose Gonzalez, Vice President Government Affairs, Associated Industries of Florida waives in support
8:43:01 AM Sen. Norman
8:43:02 AM Randy Miller, Executive Vice President, Florida Retail Federation, waives in support
8:43:09 AM Sen. Norman
8:43:21 AM Sen. Bogdanoff
8:43:25 AM Sen. Norman
8:43:48 AM Roll Call on CS/SB 982
8:43:56 AM Sen. Norman Cs/SB 982 reported favorably as committee substitute
8:44:06 AM Sen. Bogdanoff SB 1060 amendments
8:44:14 AM Sen. Norman
8:44:18 AM Sen. Bogdanoff - late filed amendment 642442 withdrawn
8:45:43 AM Sen. Norman
8:45:46 AM Sen. Bogdanoff - late-filed amendment 774432
8:46:40 AM Sen. Norman - amendment introduced
8:46:55 AM Sen. Norman - amendment adopted
8:47:04 AM Christina Johnson, Director, Citizens for a Digital Future waives in support
8:47:06 AM Sen. Norman
8:47:07 AM Vicki Weber, Attorney, Florida Chamber of Commerce waives in support
8:47:09 AM Sen. Norman
8:47:17 AM Davin Suggs, Senior Legislative Advocate, Florida Association of Counties
8:47:54 AM Sen. Norman
8:48:01 AM Amber Hughes, Legislative Advocate, Florida League of Cities
8:48:34 AM Sen. Norman
8:48:37 AM Charles Dudley, General Counsel, Florida Cable Telecommunications Association waives in support
8:48:39 AM Sen. Norman
8:48:50 AM Sen. Altman
8:49:08 AM Sen. Bogdanoff
8:50:14 AM Sen. Altman
8:50:32 AM Sen. Bogdanoff
8:50:49 AM Sen. Norman
8:50:56 AM Sen. Bogdanoff
8:51:43 AM Sen. Norman
8:51:45 AM Sen. Sachs
8:52:02 AM Sen. Bogdanoff
8:53:43 AM Sen. Norman
8:53:44 AM Sen. Margolis
8:54:54 AM Sen. Bogdanoff
8:54:56 AM Sen. Norman
8:55:02 AM Sen. Bogdanoff
8:55:03 AM Sen. Norman
8:55:09 AM Roll Call on CS/CS/SB 1060
8:55:19 AM Sen. Norman reported favorably
8:55:26 AM Sen. Altman - motion to reconsider vote taken on SB 592
8:55:39 AM Sen. Norman - motion adopted
8:55:43 AM Sen. Siplin - SB 592 - Tax Exemptions/Fresh Fruit and Vegetable Packinghouses
8:56:19 AM Sen. Norman
8:56:35 AM Sen. Siplin
8:56:40 AM Sen. Norman - late filed amendment 358890 without objection
8:56:46 AM Sen. Altman - late-filed amendment 358890
8:57:08 AM Sen. Norman
8:57:16 AM Sen. Sachs
8:57:46 AM Sen. Altman

8:58:57 AM Sen. Siplin
8:59:24 AM Sen. Sachs
8:59:36 AM Sen. Siplin
8:59:40 AM Sen. Sachs
8:59:48 AM Sen. Siplin
8:59:59 AM Sen. Sachs
9:00:12 AM Sen. Siplin
9:00:17 AM Sen. Sachs
9:00:27 AM Sen. Siplin
9:00:48 AM Sen. Sachs
9:00:50 AM Sen. Norman
9:02:09 AM Sen. Altman
9:02:57 AM Sen. Norman
9:03:03 AM Sen. Siplin
9:03:12 AM Sen. Norman amendment adopted
9:03:22 AM Sen. Norman - Sen. Siplin waives close
9:03:30 AM Roll Call on CS/SB 592
9:03:39 AM Sen. Norman CS/SB 592 reported favorably as a committee substitute
9:03:54 AM Nic Abrahams, Legislative Assistant for Sen. Dean, presents SB 806 - Enterprise Zones
9:04:14 AM Sen. Norman
9:04:31 AM Roll Call SB 806
9:04:39 AM Sen. Norman SB 806 reported favorably
9:05:00 AM Sen. Norman
9:05:12 AM Sen. Altman - CS/CS/SB 1108 - Taxation
9:05:40 AM Sen. Norman
9:05:45 AM Sen. Altman amendment 122096
9:06:23 AM Sen. Norman amendment 122096 introduced and adopted
9:06:39 AM Sen. Altman - Late-filed amendment 116190
9:06:49 AM Sen. Norman Late-filed amendment 116190 introduced
9:07:04 AM Sen. Norman - amendment adopted
9:07:12 AM Jim Magill, Lobbyist, Chromalloy Castings waives in support
9:07:14 AM Sen. Norman
9:07:21 AM Jose Gonzalez, Vice President, Associated Industries of Florida
9:07:48 AM Sen. Norman
9:07:50 AM Eric Prutsman, Florida Aviation Trades Association, waives in support
9:07:51 AM Sen. Norman
9:07:54 AM Christiain Weiss, Policy Coordinator, Governor's Office
9:07:58 AM Sen. Norman
9:08:00 AM Mac Stipanovich, Chromalloy, waives in support
9:08:07 AM Sen. Norman
9:08:15 AM Sen. Sachs
9:08:34 AM Sen. Altman
9:08:43 AM Sen. Norman
9:08:46 AM Sen. Altman waives close
9:08:47 AM Sen. Norman - Sen. Altman moves to report CS/CS/SB 1108 as a committee substitute
9:08:58 AM Roll Call CS/CS/SB 1108
9:09:06 AM Sen. Norman CS/CS/SB 1108 reported favorably as a committee substitute
9:09:20 AM Sen. Norman turns chair over to Sen. Altman
9:09:34 AM Sen. Altman
9:09:43 AM Sen. Norman CS/SB 1182
9:10:38 AM Sen. Altman
9:10:43 AM Sen. Margolis
9:11:02 AM Sen. Norman
9:11:18 AM Sen. Altman
9:11:33 AM Sen. Altman - Amendment 539534 introduced
9:11:39 AM Sen. Norman
9:11:54 AM Sen. Altman - amendment 539534 adopted
9:12:13 AM Richard Pinsky, Florida Public Housing Authorities, waives in support
9:12:16 AM Sen. Altman
9:12:21 AM Sen. Norman
9:12:26 AM Sen. Altman - CS/SB 1182 to be reported as a committee substitute
9:12:38 AM Roll Call on CS/SB 1182

9:12:48 AM Sen. Altman CS/SB 1182 reported favorably as a committee substitute
9:12:53 AM Sen. Norman
9:13:07 AM Meeting adjourned