

CS/SB 316 by **CM, Detert (CO-INTRODUCERS) Margolis, Sachs**; (Compare to CS/H 0391) Taxes

126132	D	S	RCS	AFT, Margolis	Delete everything after	04/11 12:48 PM
683512	AA	S	FAV	AFT, Brandes	Delete L.130:	04/11 12:48 PM
172076	AA	S	WD	AFT, Brandes	Delete L.167:	04/11 12:48 PM
188326	AA	S	WD	AFT, Brandes	Delete L.167:	04/11 12:48 PM
780744	AA	S	WD	AFT, Brandes	Delete L.303 - 313:	04/11 12:48 PM

CS/CS/SB 554 by **CA, EP, Altman**; (Compare to CS/H 0415) Brownfields

SB 856 by **Bullard**; (Identical to H 0621) Community Redevelopment

342076	A	S	L	WD	AFT, Abruzzo	btw L.64 - 65:	04/11 12:46 PM
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CS/SB 960 by **CM, Bean**; (Identical to CS/H 0423) Tax on Sales, Use, and Other Transactions

138984	D	S	RCS	AFT, Simmons	Delete everything after	04/11 12:48 PM
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SB 1190 by **Brandes (CO-INTRODUCERS) Sachs, Evers**; (Similar to CS/CS/H 0203) Agricultural Lands

SB 1200 by **Simpson**; (Similar to CS/H 1193) Taxation of Property

773430	A	S	RCS	AFT, Ring	Delete L.68 - 74:	04/11 12:47 PM	
484096	A	S	L	RCS	AFT, Ring	Delete L.124 - 125:	04/11 12:47 PM

SB 1280 by **Sachs**; (Identical to H 0099) Tax Dealer Collection Allowances

575878	A	S	RCS	AFT, Sachs	Delete L.59:	04/11 12:47 PM
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CS/SB 1718 by **CA, Flores (CO-INTRODUCERS) Bullard, Margolis, Diaz de la Portilla**; (Similar to CS/CS/H 1295) Discretionary Sales Surtaxes

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON FINANCE AND
TAX
Senator Hukill, Chair
Senator Ring, Vice Chair

MEETING DATE: Thursday, April 11, 2013
TIME: 10:30 a.m.—12:30 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Hukill, Chair; Senator Ring, Vice Chair; Senators Abruzzo, Altman, Brandes, Clemens, Diaz de la Portilla, Evers, Gardiner, Margolis, Sachs, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 316 Commerce and Tourism / Detert (Compare CS/H 391, H 497, H 505, H 7097, S 88, CS/S 518)	Taxes; Reducing the tax rate applied to the sale of communications services; reducing the tax rate applied to retail sales of direct-to-home satellite services; revising the term "mail order sale" to specifically include sales of tangible personal property ordered through the Internet; providing that certain persons who make mail order sales and who have a nexus with this state are subject to this state's power to levy and collect the sales and use tax when they engage in certain enumerated activities, etc. CM 02/05/2013 Fav/CS AFT 04/11/2013 Fav/CS AP RC	Fav/CS Yeas 10 Nays 1
2	CS/CS/SB 554 Community Affairs / Environmental Preservation and Conservation / Altman (Compare CS/H 415)	Brownfields; Revising legislative intent with regard to community revitalization in certain areas; revising procedures for designation of brownfield areas by local governments; providing relief of liability for property damages for entities that execute and implement certain brownfield site rehabilitation agreements, etc. EP 03/14/2013 Fav/CS CA 04/02/2013 Fav/CS AFT 04/11/2013 Favorable AP	Favorable Yeas 9 Nays 1
3	SB 856 Bullard (Identical H 621)	Community Redevelopment; Revising the definition of the term "blighted area," as applicable to the Community Redevelopment Act of 1969, to include land previously used as a military facility and adjacent to a county-owned zoological park, etc. CA 03/07/2013 Favorable AFT 04/11/2013 Favorable AP	Favorable Yeas 10 Nays 1

COMMITTEE MEETING EXPANDED AGENDAAppropriations Subcommittee on Finance and Tax
Thursday, April 11, 2013, 10:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 960 Commerce and Tourism / Bean (Identical CS/H 423)	Tax on Sales, Use, and Other Transactions; Providing an exception to sales tax for dyed diesel fuel used in vessels for commercial fishing and aquacultural purposes; providing an exception from sales tax collected by a licensed sales tax dealer for dyed diesel fuel used in vessels for commercial fishing and aquacultural purposes; providing a sales tax exemption for dyed diesel fuel used in vessels for commercial fishing and aquacultural purposes, etc. CM 03/18/2013 Fav/CS AFT 04/11/2013 Fav/CS AP	Fav/CS Yeas 9 Nays 2
5	SB 1190 Brandes (Similar CS/CS/H 203)	Agricultural Lands; Prohibiting a governmental entity from adopting or enforcing any prohibition, restriction, regulation, or other limitation or from charging a fee on a specific agricultural activity of a bona fide farm operation on land classified as agricultural land under certain circumstances, etc. AG 03/11/2013 Favorable EP 04/02/2013 Favorable AFT 04/11/2013 Favorable AP	Favorable Yeas 10 Nays 0
6	SB 1200 Simpson (Similar CS/H 1193)	Taxation of Property; Deleting authorization for a value adjustment board upon its own motion to review lands classified by a property appraiser as agricultural or nonagricultural; deleting a requirement that the property appraiser must reclassify as nonagricultural certain lands that have been zoned to a nonagricultural use; deleting authorization for a value adjustment board upon its own motion to review property granted or denied classification by a property appraiser as historic property that is being used for commercial or certain nonprofit purposes, etc. CA 03/20/2013 Favorable AG 04/01/2013 Favorable AFT 04/11/2013 Fav/CS AP	Fav/CS Yeas 11 Nays 0
7	SB 1280 Sachs (Identical H 99, H 1023)	Tax Dealer Collection Allowances; Revising the process for dealers to elect to forgo the sales tax collection allowance and direct that the collection allowance amount be transferred into the Educational Enhancement Trust Fund, etc. ED 04/01/2013 Favorable AFT 04/11/2013 Fav/CS AP	Fav/CS Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA
 Appropriations Subcommittee on Finance and Tax
 Thursday, April 11, 2013, 10:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	CS/SB 1718 Community Affairs / Flores (Similar CS/CS/H 1295)	Discretionary Sales Surtaxes; Authorizing a county defined in s. 125.011(1), F.S., to levy a surtax up to a specified amount for the benefit of a Florida College System institution in the county pursuant to an ordinance conditioned to take effect upon approval in a county referendum; establishing an oversight board with specified duties, responsibilities, and procedures relating to the expenditure of surtax proceeds; providing that state funding may not be reduced because an institution receives surtax funds, etc.	Favorable Yeas 9 Nays 1
		CA 03/20/2013 Fav/CS ED 04/01/2013 Favorable AFT 04/11/2013 Favorable AP	
9	Continuation of Review of Economic Development Tax Incentives		Not Considered
10	Other Related Meeting Documents		

The bill revises the definition of “dealer” to include any person who uses an office, distributing house, salesroom, or house, warehouse or other place of business operated by any person other than a common carrier.

The Revenue Estimating Conference (REC) adopted a positive indeterminate impact for the provisions of the bill related to sales by out-of-state retailers. Since revenue collections depend on the behavior of out-of-state retailers, the impact could also be zero.

The bill requires the Department of Revenue to develop a tracking system to determine the amount of additional sales tax collected due to the provisions in this bill dealing with sales by out-of-state retailers and report its determinations annually. The Revenue Estimating Conference is required to use the information to determine the amount of sales taxes collected in the past calendar year and estimate the amount that may be collected in the next year. The bill requires the Legislature to use the information to provide tax relief by reducing the communication services tax and implementing a three day sales tax holiday..

This bill amends ss. 212.0596 and 212.06, F.S..

This bill creates general law not contained in a designated section of the Florida Statutes.

II. Present Situation:

Because Florida has no personal state income tax, the state primarily depends on consumption-based taxes for its general revenue. Sales tax collections make up over 70 percent of general revenue.¹ Forty-five states and the District of Columbia impose sales and use taxes.² States that do not have a personal income tax – Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington, and Wyoming – rely most heavily on sales tax collections.³

Florida Sales and Use Tax

Chapter 212, F.S., contains the 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. A 6 percent sales and use tax is levied on most tangible personal property, admissions, storage, transient rentals, commercial rentals, motor vehicles, and a limited number of services.⁴ The statutes currently provide more than 200 different exemptions.⁵

¹ See Florida Revenue Estimating Conference (REC), 2012 Florida Tax Handbook. Revenues from the sales and use tax for FY 2011-12 totaled over \$17 billion.

² Alaska, Delaware, Montana, New Hampshire, and Oregon do not impose a state sales and use tax, although Alaska permits local governments to impose sales and use taxes.

³ New Hampshire and Tennessee both have income taxes, but the taxes are not imposed on wages or other income other than dividends and interest.

⁴ Of the limited services that are taxable, some, such as cable, are taxed at a higher rate.

⁵ For a list of exemptions and history, see REC, 2012 Florida Tax Handbook. Exemptions are estimated to total about \$10 billion.

A sales tax of 6 percent is levied on the sales price of tangible personal property sold at retail in Florida.⁶ Sales tax is added to the price of the taxable goods or services and is collected from the purchaser at the time of sale.

A use tax of 6 percent is levied on the cost price of tangible personal property when it is used, consumed, distributed, or stored, rather than sold, in Florida.⁷ This tax is levied when sales tax was not paid at the time of purchase. For example, use tax is owed when a person buys:⁸

- A taxable item in Florida and does not pay sales tax;
- An item tax-exempt intending to resell it, and then uses the item in a business or for personal use; or
- A taxable item outside Florida and brings or has it delivered into the state within 6 months of the purchase date, and sales tax was not paid on the purchase.

If the item brought into Florida is subject to tax, a credit is allowed for taxes paid to another state, a U.S. territory, or Washington, D.C. Credit is not given for taxes paid to another country.

The Florida Department of Revenue (DOR) is responsible for administering, collecting, and enforcing all sales taxes. Collections of discretionary sales surtaxes received by DOR are returned monthly to the county imposing the tax. Further, there are several state-shared revenue programs that allocate some portion of the state sales and use tax to local governments. A few revenue sharing programs require as a prerequisite that the county or municipality meet eligibility criteria. While general law restricts the use of some shared revenues, proceeds derived from other shared revenues may be used for the general revenue needs of local governments.⁹

Local Discretionary Sales Surtax

A “surtax” is an extra tax or charge.¹⁰ Sections 212.054 and 212.055, F.S., authorize Florida counties to charge a discretionary sales surtax on all transactions subject to the state sales and use tax. Only those surtaxes specifically designated may be levied.

The maximum discretionary sales surtax that any county can levy depends upon the county’s eligibility for the taxes listed in s. 212.055, F.S. Currently, the maximum surtax actually imposed is 1.5 percent in several counties;¹¹ however, the theoretical maximum rate ranges between 2 percent and 3.5 percent, depending on the specifics of each individual county. In general, the levy of a particular tax is subject to county voter approval.

The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state tax. The sales amount is not subject to the tax if the property or service is delivered within a county that does not impose

⁶ Section 212.05(1)(a)1.a., F.S.

⁷ Section 212.05(1)(b), F.S.

⁸ Department of Revenue, Florida’s Sales and Use Tax, available at http://dor.myflorida.com/dor/taxes/sales_tax.html#tab1 (last visited 1/31/2013).

⁹ For more information see REC, 2012 Florida Tax Handbook.

¹⁰ Black’s Law Dictionary (9th ed., 2009), tax.

¹¹ See DOR Form DR-15 DSS, Discretionary Sales Surtax Information, available at <http://dor.myflorida.com/dor/forms/2013/dr15dss.pdf> (last visited 1/31/2013).

a surtax. The surtax does not apply to a sales amount above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service, rentals of real property, or transient rentals.

Internet Sales and Out of State Vendors¹²

Under Florida law, each sale is subject to sales tax unless a transaction is specifically exempt. Sales made over the Internet are not exempt from the provisions of ch. 212, F.S.¹³ When the sales tax is not collected at the time of purchase, states impose “use” taxes. Use taxes are difficult for states to enforce because states must rely on out-of-state vendors to collect the tax or purchasers to remit the tax themselves. Out-of-state vendors argue that states have no jurisdiction over them. A state’s ability to compel an out-of-state seller to collect and remit sales tax is limited by the Commerce Clause and the Due Process Clause of the U.S. Constitution.¹⁴ The U.S. Supreme Court has held that the states’ disparate state and local sales tax systems make collecting taxes an undue burden on out-of-state retailers.¹⁵

In order for sales occurring over the Internet to be subject to the sales tax, there must be sufficient nexus between the seller and the state. Nexus has been found to exist when a seller:

- Has agents in this state who solicit or transact business on behalf of the seller and as a result receive orders for merchandise to be delivered to the purchaser in this state;
- Has a physical location in this state;
- Delivers merchandise into this state in vehicles which are leased or owned by the seller;
- Owns land or buildings located in this state;
- Stores merchandise in this state for sale or use; or
- Rents or leases merchandise that is located in Florida in the possession of a lessee.¹⁶

Section 212.0596, F.S., imposes sales tax on a “mail order sale,” which is defined to mean “a sale of tangible personal property, ordered by mail or other means of communication, from a dealer who receives the order in another state of the United States, or in a commonwealth, territory, or other area under the jurisdiction of the United States, and transports the property or causes the property to be transported, whether or not by mail, from any jurisdiction of the United States, including this state, to a person in this state, including the person who ordered the property.”¹⁷

¹² For an in depth analysis, see Senate Budget Subcommittee on Finance and Tax, Interim Report 2012-107: Application of Florida’s Sales Tax to Sales by Out-of-State Retailers (August 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/BFT1072012-107ft.pdf> (last visited 1/28/2013).

¹³ See DOR, Florida Consumer Information website on remitting use tax for Internet sales, available at <http://dor.myflorida.com/dor/taxes/consumer.html> (last visited 1/31/2013).

¹⁴ Due Process requires some minimal contact with the taxing state for a taxing statute to be upheld. Upholding a statute against a Commerce Clause challenge is dependent upon satisfying a 4-part test: (1) the tax is applied to an activity with a substantial nexus with the taxing state; (2) the tax is fairly apportioned; (3) the tax does not discriminate against interstate commerce; and (4) the tax is fairly related to a service provided by the taxing state. See *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977), rehearing denied, 430 U.S. 976 (1977).

¹⁵ See *Closing the Online Tax Loophole*, Blackston, Michelle, NCSL’s State Legislatures, April 2008.

¹⁶ Depending on the jurisdiction, courts have found that these situations satisfy nexus while others have found that they were insufficient alone.

¹⁷ Section 212.0596(1), F.S.

Section 212.0596(2), F.S., requires dealers doing mail order business in Florida to collect and remit Florida sales tax if the dealer has nexus with Florida, and provides what activities constitute nexus for purposes of mail order sales. These include:

- The dealer has agents in Florida who solicit or transact business on behalf of the dealer;
- The property was delivered in Florida in fulfillment of a sales contract entered into in Florida;
- The dealer creates nexus with Florida by purposefully or systematically exploiting Florida's market by any media assisted, media facilitated, or media solicited means;
- Another U.S. jurisdiction uses its taxing power over the retailer in support of Florida's taxing power;
- The dealer is subject to service of process; or
- The dealer without nexus with Florida is a corporation that is a member of an affiliated group of corporations under s. 1504 of the Internal Revenue Code and whose members are eligible to file a consolidated federal corporate income tax return.

If the person selling the property into this state does not have sufficient nexus or is not registered with DOR as a dealer to collect sales tax, and the goods are delivered in Florida, then use tax applies and is due from the purchaser.

According to the U.S. Census Bureau about 70 percent of U.S. households have Internet access.¹⁸ The U.S. Census Bureau estimated that national e-commerce sales over the last 4 quarters exceeded \$216 billion dollars. However, e-commerce sales make up only about 5 percent of total retail sales in the U.S.¹⁹

The issue of sales and use taxes on e-commerce is important to the states for three main reasons:

- The continued growth in e-commerce points to an increasing number of transactions on which sales taxes will not be collected, resulting in sales tax revenue losses for state and local governments;
- Since out-of-state sellers do not have to collect sales taxes, except in states where they have "nexus," they enjoy a competitive advantage over "brick and mortar" local businesses; and
- Because of on-line retailers, consumers who can afford access to the Internet escape paying sales and use taxes while forcing those without access to shoulder a heavier burden of the sales tax.²⁰

Studies estimate differing amounts of lost sales tax revenue. The most recent study, a September 2011 report by Arudin, Laffer, and Moore Econometrics, estimated tax revenue losses of \$374 million in 2010 and between \$449.6 million and \$454.0 million in 2012.²¹ Other studies suggest that between \$280 million to \$800 million dollars of Florida state and local sales tax collections

¹⁸ 2010 data available at <http://www.census.gov/population/www/socdemo/computer.html> (last visited 1/28/2013).

¹⁹ Quarterly Retail E-Commerce Sales, 3rd Quarter 2012, available at http://www.census.gov/retail/mrts/www/data/pdf/ec_current.pdf (last visited 1/28/2013).

²⁰ Graham Williams, "Streamlined Sales Tax for the New Economy," National Conference of State Legislatures, Nov./Dec. 2000, Vol. 8, No. 44.

²¹ Report on file with the Senate Commerce and Tourism Committee.

are not being remitted annually.²² The actual amount of lost sales tax revenue is difficult to determine due to the more than 200 sales tax exemptions in Florida law and the 67 different state and local taxing jurisdictions in the state. Because of the numerous exemptions and taxing jurisdictions, an out-of-state retailer may find it difficult to collect and remit sales taxes. There are about 7,500 different taxing jurisdictions at the state and local levels in the U.S.

Federal Involvement in the Issue

Since the power to regulate interstate commerce resides at the federal level, federal legislation appears to be the only comprehensive solution for states to have the authority to require out-of-state retailers to collect sales tax. Multiple bills have been filed in Congress over the years to try to address the issue, but none have been voted on by either the U.S. House of Representatives or U.S. Senate.²³

Actions of Other States

Other states have attempted to address the issue of taxing sales by out-of-state retailers through various methods.

Some states have passed legislation to fully participate in the Streamlined Sales and Use Tax Agreement (SSUTA).²⁴ These states have “modernized” their sales and use tax structures to create a uniform, simplified taxing system that would apply to all businesses collecting sales and use taxes. However, participation in collecting sales tax under the agreement is voluntary for sellers who do not have a physical presence or “nexus” within a state. Currently, over 1,000 businesses have voluntarily agreed to collect taxes on out-of-state sales. The end goal of the effort is for Congress to require collection from all sellers for all types of commerce.

Other states have enacted laws which attempt to establish the necessary nexus to require an out-of-state seller to collect and remit sales taxes. Generally it appears that there are three approaches:

1. Establish nexus through affiliates of an out-of-state retailer. When a state resident is an “affiliate” of an out-of-state retailer and the total sales by the out-of-state retailer that result from all referrals from affiliates in the state exceed a certain total (generally \$10,000), then the retailer must collect and remit state sales tax. Total sales by the out-of-state retailer as a result of referrals must exceed the threshold before tax is required to be collected by the out-of-state retailer.
2. Establish nexus through commission arrangements by Internet retailers with other websites owned by state residents for referring sales (also known as “click-through”

²² See the Florida Senate Budget Subcommittee on Finance and Tax Interim Report 2012-107 on the *Application of Florida’s Sales Tax to Sales by Out-of-state Retailers*.

²³ Legislation was filed most recently in the 112th Congress titled the “Main Street Fairness Act,” that authorized states that were members of the SSUTA to require out-of-state retailers to collect and remit state sales and use tax. See H.R. 2701 and S. 1452 (112th Congress). No related legislation has been filed in the 113th Congress as of the publication of this analysis.

²⁴ Florida legislative action in response to this project includes s. 213.27, F.S., which grants DOR authority to enter into contracts with public or private vendors to develop and implement a voluntary system for sales and use tax collection and administration (ch. 2000-355, L.O.F.), and ch. 2001-225, L.O.F., which among other things, created the Simplified Sales and Use Tax Act, authorizing Florida to participate in the next phase of discussions with other states for the purposes of developing the project. See the SSUTA website for more information: <http://www.streamlinedsalestax.org/>.

- nexus). Similar to the affiliate relationship with out-of-state retailers, this approach also requires sales of a certain amount before liability for collection of state sales tax arises.
3. Require the retailer to notify the customer that sales and use tax may be due in the customer's state. This approach does not require collection of sales tax by the retailer. Instead the retailer is required to provide notice to the consumer, and in one state is also required to remit information to the state department of revenue related to sales to that state's residents.

Some states have enacted one of the approaches listed above or a hybrid. Some states take the approach of establishing nexus through existing state laws related to mail order sales. Pennsylvania is attempting to require out-of-state retailers to collect sales tax under the state's existing law.²⁵

Other states have elected to exempt certain retailers from collecting and remitting sales tax if the seller agrees to make a substantial investment in the state in the form of a distribution center and create a certain number of jobs. For example, South Carolina's statute requires a \$125 million investment and 2,000 new jobs in exchange for exemption from sales tax collections until 2016. However, Internet retailers must notify a purchaser in a confirmation email that the purchaser may owe South Carolina use tax on the total sales price.

States that have enacted laws or taken the above approaches have been challenged by out-of-state retailers for violation of the U.S. Constitution. While some retailers have been awarded an injunction from enforcement of the state's statutes, there have been no final decisions affording a resolution of the issues. In 2012, Amazon began to collect and remit sales taxes in some states (or to provide a service to its sellers to collect and remit sales tax), while also lobbying Congress to enact federal legislation to require out-of-state sellers to collect and remit sales tax.

Communication Services Tax

Communication services include telecommunications, cable, direct-to-home satellite, and related services.²⁶

Generally, the communication services tax includes a state tax portion of 6.65 percent and a state gross receipts tax portion of 2.52 percent for a combined rate of 9.17 percent.²⁷ In addition, local governments may impose a local tax rate of up to 7.12 percent.²⁸

Direct-to-home satellite service is taxed at a rate of 10.8 percent, and is also subject to the 2.37 percent gross receipts tax. Since local tax does not apply to these services, the total tax rate for direct-to-home satellite services is 13.17 percent.

Local, long distance, and toll telephone services sold to a residential household are exempt from the 6.65 percent state tax and 0.15 percent gross receipts tax.²⁹

²⁵ See Pennsylvania Department of Revenue, Nexus Resources for Retailers, available at http://www.revenue.state.pa.us/portal/server.pt/community/nexus_resources/20610 (last visited 1/20/2012).

³¹ See AMJUR STATELOCL s. 157; 71 A.L.R.5th 671.

³¹ See AMJUR STATELOCL s. 157; 71 A.L.R.5th 671.

³¹ See AMJUR STATELOCL s. 157; 71 A.L.R.5th 671.

³¹ See AMJUR STATELOCL s. 157; 71 A.L.R.5th 671.

A portion of the state taxes collected – including taxes collected on direct-to-home satellite service – are deposited into the general revenue fund and a portion is distributed to local governments.³⁰ Gross receipts tax collections are deposited into the Public Education Capital Outlay and Debt Service Trust Fund and are used for the capital funding of public schools, community colleges, and universities. DOR provides tax collection services for local government, and local communication services taxes are distributed to local governments.

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:

CS/SB 316 amends Florida law to require out-of-state retailers that conduct business over the Internet to collect and remit Florida sales tax on sales made to Florida customers.

Section 1 amends s. 212.0596, F.S., to provide that a “mail order sale” includes the sale of tangible personal property over the Internet.

The bill revises provisions related to when dealers who make mail order sales are required to collect and remit Florida sales tax. The bill provides that a representative of a dealer, in addition to an agent, soliciting or transacting business in the state may cause the dealer to have nexus for mail order sales.

Additionally, the bill creates two new situations:

Affiliates –

When a person with nexus to Florida sells a similar line of products as a dealer; does business under the same name and uses similar trademarks; maintains an office, warehouse, or similar place of business to facilitate the delivery of property sold by the dealer; facilitates delivery or pick-up of the property in Florida; assembles, installs, or performs maintenance services for the dealer in Florida; or conducts other activities in Florida that are “significantly associated with the dealer’s ability to establish and maintain a market in Florida,” then the dealer must collect and remit Florida sales tax.

The bill provides that a dealer is required to collect and remit sales tax if the dealer:

- Has a physical presence in the state, or
- The activities conducted in Florida on behalf of the dealer are significantly associated with the dealer’s ability to establish and maintain a market in Florida.

³¹ See AMJUR STATELOCL s. 157; 71 A.L.R.5th 671.

Commission Arrangements –

If the dealer enters into an agreement with one or more Floridians, under which the person directly or indirectly refers potential customers to the dealer for a commission or other consideration, and the cumulative gross receipts for referrals are in excess of \$10,000 during the previous 12 months, then a rebuttable presumption arises that the dealer must collect and remit Florida sales tax. Such referrals may be made by a link on a website, an in-person presentation, telemarketing, or otherwise. The \$10,000 gross sales threshold is adjusted every five years based on changes in the Consumer Price Index.

The dealer may rebut the presumption by submitting evidence that the Floridians with which the dealer has agreements did not engage in activity that was significantly associated with the dealer's ability to establish and maintain a market in Florida for the previous 12 months. Such evidence may include sworn affidavits from the Floridians attesting that they did not engage in any solicitation in Florida on the dealer's behalf in the previous year.

Section 2 amends s. 212.06, F.S., revising the definition of "dealer" to include a person who uses, within this state, an office, distributing house, salesroom, or house, warehouse or other place of business operated by a person other than a common carrier acting in the capacity of a common carrier. This section also makes stylistic changes.

Section 3 provides a mechanism for the Legislature to return any taxes collected as a result of the provisions of this bill dealing with sales by out-of-state retailers to Florida taxpayers.

DOR, in consultation with the Revenue Estimating Conference, must develop a tracking system to determine the amount of sales tax collected by out-of-state dealers who would not be required to collect and remit sales taxes in the absence of the bill. The Revenue Estimating Conference will use the information provided by DOR to determine the amount of sales taxes remitted in the previous calendar year and estimate the amount of sales taxes collected that will be expected in the following fiscal year. The Legislature is required to use the estimates to reduce taxes in an amount not less than the amount estimated by the Revenue Estimating Conference, by reducing the communication services tax and implementing a three day sales tax holiday.

Effective Date

Section 4 provides an effective date of February 1, 2014, except as otherwise provided in the bill.

IV. Constitutional Issues:

- A. Municipality/County Mandates Restrictions:
- B. None.Public Records/Open Meetings Issues:
None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Many of the states that have enacted similar laws have become involved in lawsuits challenging the constitutionality of the laws. If this bill were to become law, Florida may be subject to such lawsuits. As discussed above in the Present Situation, a state's ability to compel an out-of-state seller to collect and remit sales tax is primarily limited by the Commerce Clause of the U.S. Constitution.³¹

Upholding a statute against a Commerce Clause challenge is dependent upon satisfaction of a 4-part test: (1) the tax is applied to an activity with a substantial nexus with the taxing state; (2) the tax is fairly apportioned; (3) the tax does not discriminate against interstate commerce; and (4) the tax is fairly related to a service provided by the taxing state. See Complete Auto Transit, Inc. v. Brady, 430 U.S. 274 (1977).

The nexus requirement outlined in Complete Auto has generally been interpreted to require that in order to require an out-of-state retailer to collect sales tax, the retailer must have a "physical presence" in the state.³²

In Scripto, Inc. v. Carson, the U.S. Supreme Court held that an out-of-state retailer with agents in Florida was a dealer required to collect and remit Florida sales tax.³³ The agents of the out-of-state retailer represented the retailer pursuant to a contract that authorized the Florida merchants to solicit orders and otherwise obtain business for the retailer in Florida in return for compensation to be paid in the form of a commission.

The U.S. Supreme Court held in Tyler Pipe Industries, Inc., v. Washington State Dept. of Revenue, that "the crucial factor governing nexus is whether the activities performed in this state on behalf of the taxpayer are significantly associated with the taxpayer's ability to establish and maintain a market in this state for the sales."³⁴ The Court found that this standard was satisfied because of the activities of the business's sales representatives in the state.

Many of the cases related to this issue were decided before the emergence of the Internet, and thus it is unclear how the case law should be applied to sales over the Internet. Many of the states that have enacted similar laws have become involved in lawsuits challenging the constitutionality of their laws. There have been no final decisions affording a resolution of the issues.

³¹ See AMJUR STATELOCL s. 157; 71 A.L.R.5th 671.

³² See Quill Corporation v. North Dakota, 504 U.S. 298 (1992).

³³ Scripto, Inc., v. Carson, 362 U.S. 207, 211 (1960).

³⁴ Tyler Pipe Industries, Inc., v. Washington State Dept. of Revenue, 483 U.S. 232, 250 – 251 (1987).

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

The Revenue Estimating Conference (REC) adopted a positive indeterminate impact for the provisions of the bill related to sales by out-of-state retailers. Since revenue collections depend on the behavior of out-of-state retailers, the impact could also be zero.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This provisions in this bill related to sales by out-of-state retailers will require the Department of Revenue to amend its sales tax registration process and develop a tracking system to track the revenues remitted by out-of-state retailers.

VI. Technical Deficiencies:

None.

VII. Related Issues:**VIII. None. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Appropriations Subcommittee on Finance and Tax on April 11, 2013:**

The committee substitute:

- Deletes the provisions of the bill that lower the communication services tax.
- Deletes the provisions of the bill that expand the sales tax exemption for machinery and equipment.
- Requires the legislature to return any taxes collected as a result of this bill by lowering the communication services tax rate and implementing a three day sales tax holiday.
- Provides that the \$10,000 gross sales threshold for sales tax collection by out-of-state retailers that have commission arrangements with Florida residents is adjusted every five years based on changes in the Consumer Price Index.
- Makes technical changes.
- Changes the effective date to February 1, 2014.

CS by Commerce and Tourism on February 5, 2013:

The committee substitute differs from the bill as originally filed in the following ways:

- Restores current law related to nexus established for a dealer that is affiliated with a corporation doing business in Florida;

- Reduces the rate charged against the sales price of communication services and direct-to-home satellite services, and makes conforming changes; these provisions are effective on January 1, 2014; and
- Expands the sales tax on machinery and equipment to all businesses by eliminating the 5 percent productivity requirement for expanding businesses to qualify for the exemption.

B. Amendments:

None.

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



126132

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Margolis)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 212.0596, Florida Statutes, is amended
to read:

212.0596 Taxation of mail order sales.—

(1) For purposes of this chapter, a "mail order sale" is a
sale of tangible personal property, ordered by mail, the
Internet, or other means of communication, from a dealer who
receives the order in another state ~~of the United States,~~ or in
a commonwealth, territory, or other area under the jurisdiction



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13 of the United States, or in a foreign country, and transports
14 the property or causes the property to be transported, whether
15 or not by mail, from any jurisdiction of the United States,
16 including this state, to a person in this state, including the
17 person who ordered the property.

18 (2) Every dealer as defined in s. 212.06(2)(c) who makes a
19 mail order sale is subject to the power of this state to levy
20 and collect the tax imposed by this chapter if ~~when~~:

21 (a) The dealer is ~~a corporation~~ doing business under the
22 laws of this state or is a person domiciled in, a resident of,
23 or a citizen of, this state;

24 (b) The dealer maintains retail establishments or offices
25 in this state, whether the mail order sales ~~thus~~ subject to
26 taxation by this state result from or are related in any other
27 way to the activities of such establishments or offices;

28 (c) The dealer has agents or representatives in this state
29 who solicit business or transact business on behalf of the
30 dealer, whether the mail order sales ~~thus~~ subject to taxation by
31 this state result from or are related in any other way to such
32 solicitation or transaction of business, except that a printer
33 who mails or delivers for an out-of-state print purchaser
34 material the printer printed for it is ~~shall~~ not ~~be~~ deemed to be
35 the print purchaser's agent or representative for purposes of
36 this paragraph;

37 (d) The property was delivered in this state in fulfillment
38 of a sales contract that was entered into in this state, in
39 accordance with applicable conflict of laws rules, when a person
40 in this state accepted an offer by ordering the property;

41 (e) The dealer, by purposefully or systematically



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42 exploiting the market provided by this state by any media-
43 assisted, media-facilitated, or media-solicited means,
44 including, but not limited to, direct mail advertising,
45 unsolicited distribution of catalogs, computer-assisted
46 shopping, television, radio, or other electronic media, or
47 magazine or newspaper advertisements or other media, creates
48 nexus with this state;

49 (f) Through compact or reciprocity with another
50 jurisdiction of the United States, that jurisdiction uses its
51 taxing power and its jurisdiction over the retailer in support
52 of this state's taxing power;

53 (g) The dealer consents, expressly or by implication, to
54 the imposition of the tax imposed by this chapter;

55 (h) The dealer is subject to service of process under s.
56 48.181;

57 (i) The dealer's mail order sales are subject to the power
58 of this state to tax sales or to require the dealer to collect
59 use taxes pursuant to federal law ~~under a statute or statutes of~~
60 ~~the United States;~~

61 (j) The dealer owns real property or tangible personal
62 property that is physically in this state, except that a dealer
63 whose only property, including property owned by an affiliate,
64 in this state is located at the premises of a printer with which
65 the vendor has contracted for printing, and is ~~either~~ a final
66 printed product, ~~or~~ property that ~~which~~ becomes a part of the
67 final printed product, or property from which the printed
68 product is produced, is not deemed to own such property for
69 purposes of this paragraph;

70 (k) The dealer, while not having nexus with this state on



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71 any of the bases described in paragraphs (a)-(j) or paragraphs
72 (l)-(m) paragraph (l), is a corporation that is a member of an
73 affiliated group of corporations, as defined in s. 1504(a) of
74 the Internal Revenue Code, whose members are includable under s.
75 1504(b) of the Internal Revenue Code and whose members are
76 eligible to file a consolidated tax return for federal corporate
77 income tax purposes and any parent or subsidiary corporation in
78 the affiliated group has nexus with this state on one or more of
79 the bases described in paragraphs (a)-(j) or paragraphs (l)-(m)
80 paragraph (l); or

81 (1) A person, other than a person acting in the capacity of
82 a common carrier, has nexus with this state and:

83 1. Sells a similar line of products as the dealer and does
84 so under the same or a similar business name;

85 2. Maintains an office, distribution facility, warehouse,
86 storage place, or similar place of business in this state to
87 facilitate the delivery of property or services sold by the
88 dealer to the dealer's customers;

89 3. Uses trademarks, service marks, or trade names in this
90 state which are the same or substantially similar to those used
91 by the dealer;

92 4. Delivers, installs, assembles, or performs maintenance
93 services for the dealer's customers in this state;

94 5. Facilitates the dealer's delivery of property to
95 customers in this state by allowing the dealer's customers to
96 pick up property sold by the dealer at an office, distribution
97 facility, warehouse, storage place, or similar place of business
98 maintained by the person in this state; or

99 6. Conducts any other activities in this state which are



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100 significantly associated with the dealer's ability to establish
101 and maintain a market in this state for the dealer's sales; or

102 (m) ~~(l)~~ The dealer or the dealer's activities have
103 sufficient connection with or relationship to this state or its
104 residents of some type other than those described in paragraphs
105 (a) - (l) ~~(a) - (k)~~ to create a nexus empowering this state to tax
106 its mail order sales or to require the dealer to collect sales
107 tax or accrue use tax.

108
109 Notwithstanding other provisions of law, a dealer, other than a
110 dealer described in paragraphs (g) and (i), is not required to
111 collect and remit sales or use tax under this subsection unless
112 the dealer has a physical presence in this state or the
113 activities conducted in this state on the dealer's behalf are
114 significantly associated with the dealer's ability to establish
115 and maintain a market for sales in this state.

116 (3) (a) Notwithstanding other provisions of law or this
117 section, there is a rebuttable presumption that every dealer, as
118 defined in s. 212.06, who makes a mail order sale is also
119 subject to the power of this state to levy and collect the tax
120 imposed by this chapter if the dealer enters into an agreement
121 with one or more persons in this state under which the person in
122 this state, for a commission or other consideration, directly or
123 indirectly refers potential customers, whether by a link on an
124 Internet website, an in-person oral presentation, telemarketing,
125 or otherwise, to the dealer, if the cumulative gross receipts
126 from sales by the dealer to customers in this state who are
127 referred to the dealer by all persons in this state having this
128 type of an agreement with the dealer is in excess of \$10,000



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129 during the 12 months immediately before the rebuttable
130 presumption arose.

131 (b) The presumption in paragraph (a) may be rebutted by the
132 submission of evidence proving that the persons in this state
133 with whom the dealer has an agreement did not engage in any
134 activity within this state which was significantly associated
135 with the dealer's ability to establish or maintain the dealer's
136 market in this state during the 12 months immediately before the
137 rebuttable presumption arose. The evidence may consist of sworn
138 affidavits, obtained and given in good faith, from each person
139 in this state with whom the dealer has an agreement attesting
140 that he or she did not engage in any solicitation in this state
141 on the dealer's behalf during the previous year.

142 (4)-(3) A ~~Every~~ dealer engaged in the business of making
143 mail order sales is subject to the requirements of this chapter
144 for cooperation of dealers in collection of taxes and in
145 administration of this chapter, except that a ~~no~~ fee may not
146 ~~shall~~ be imposed upon such dealer for carrying out any required
147 activity.

148 (5)-(4) The department shall, with the consent of another
149 jurisdiction of the United States whose cooperation is needed,
150 enforce this chapter in that jurisdiction, ~~either~~ directly or,
151 at the option of that jurisdiction, through its officers or
152 employees.

153 (6)-(5) The tax required under this section to be collected
154 and any amount unreturned to a purchaser which ~~that~~ is not tax
155 but was collected from the purchaser under the representation
156 that it was tax constitute funds of this ~~the~~ state ~~of Florida~~
157 from the moment of collection.



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158 (7)~~(6)~~ Notwithstanding other provisions of law, a dealer
159 who makes a mail order sale in this state is exempt from
160 collecting and remitting any local option surtax on the sale,
161 unless the dealer is located in a county that imposes a surtax
162 within the meaning of s. 212.054(3)(a), the order is placed
163 through the dealer's location in such county, and the property
164 purchased is delivered into such county or into another county
165 in this state which ~~that~~ levies the surtax, in which case the
166 provisions of s. 212.054(3)(a) are applicable.

167 (8)~~(7)~~ The department may establish by rule procedures for
168 collecting the use tax from unregistered persons who but for
169 their mail order purchases would not be required to remit sales
170 or use tax directly to the department. The procedures may
171 provide for waiver of registration and registration fees,
172 provisions for irregular remittance of tax, elimination of the
173 collection allowance, and nonapplication of local option
174 surtaxes.

175 Section 2. Subsection (2) of section 212.06, Florida
176 Statutes, is amended to read:

177 212.06 Sales, storage, use tax; collectible from dealers;
178 "dealer" defined; dealers to collect from purchasers;
179 legislative intent as to scope of tax.-

180 (2)~~(a)~~ The term "dealer," as used in this chapter, means a
181 includes every person who:

182 (a) Manufactures or produces tangible personal property for
183 sale at retail; for use, consumption, or distribution; or for
184 storage to be used or consumed in this state.

185 ~~(b) The term "dealer" is further defined to mean every~~
186 ~~person, as used in this chapter, who~~ Imports, or causes to be



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187 imported, tangible personal property from any state or foreign
188 country for sale at retail; for use, consumption, or
189 distribution; or for storage to be used or consumed in this
190 state.

191 ~~(c) The term "dealer" is further defined to mean every~~
192 ~~person, as used in this chapter, who Sells at retail or who~~
193 ~~offers for sale at retail, or who has in his or her possession~~
194 ~~for sale at retail; or for use, consumption, or distribution; or~~
195 ~~for storage to be used or consumed in this state, tangible~~
196 ~~personal property as defined herein, including a retailer who~~
197 ~~transacts a mail order sale.~~

198 ~~(d) The term "dealer" is further defined to mean any person~~
199 ~~who Has sold at retail; or used, or consumed, or distributed; or~~
200 ~~stored for use or consumption in this state, tangible personal~~
201 ~~property and who cannot prove that the tax levied by this~~
202 ~~chapter has been paid on the sale at retail, the use, the~~
203 ~~consumption, the distribution, or the storage of such tangible~~
204 ~~personal property. However, The term "dealer" does not include~~
205 ~~mean a person who is not a "dealer" as otherwise defined in~~
206 ~~under the definition of any other paragraph of this subsection~~
207 ~~and whose only owned or leased property, (including property~~
208 ~~owned or leased by an affiliate,) in this state is located at~~
209 ~~the premises of a printer with which it has contracted for~~
210 ~~printing, if such property consists of the final printed~~
211 ~~product, property which becomes a part of the final printed~~
212 ~~product, or property from which the printed product is produced.~~

213 ~~(e) The term "dealer" is further defined to mean any~~
214 ~~person, as used in this chapter, who Leases or rents tangible~~
215 ~~personal property, as defined in this chapter, for a~~



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216 consideration, permitting the use or possession of such property
217 without transferring title thereto, except as expressly provided
218 in this chapter ~~for to the contrary herein.~~

219 ~~(f) The term "dealer" is further defined to mean any~~
220 ~~person, as used in this chapter, who~~ Maintains or has within
221 this state, directly or by a subsidiary, an office, distributing
222 house, salesroom, or house, warehouse, or other place of
223 business, or uses within this state an office, distributing
224 house, salesroom, or house, warehouse, or other place of
225 business operated by any person other than a common carrier
226 acting in the capacity of a common carrier.

227 ~~(g) "Dealer" also means and includes every person who~~
228 Solicits business ~~either~~ by direct representatives, indirect
229 representatives, or manufacturers' agents within this state; ~~by~~
230 ~~distribution of catalogs or other advertising matter; or by any~~
231 ~~other means whatsoever,~~ and by reason thereof receives orders
232 for tangible personal property from consumers for use,
233 consumption, distribution, and storage for use or consumption in
234 the state. ~~+~~ Such dealer shall collect the tax imposed by this
235 chapter from the purchaser, and no action, ~~either~~ in law or in
236 equity, on a sale or transaction as provided by ~~the terms of~~
237 this chapter may be had in this state by ~~any~~ such dealer unless
238 it is affirmatively shown that the provisions of this chapter
239 have been fully complied with.

240 ~~(h) "Dealer" also means and includes every person who,~~ As a
241 representative, agent, or solicitor of an out-of-state principal
242 or principals, solicits, receives, and accepts orders from
243 consumers in the state for future delivery and whose principal
244 refuses to register as a dealer.



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245 (i) Constitutes ~~"Dealer"~~ ~~also means and includes~~ the state
246 ~~or any~~, county, municipality, district ~~any political~~
247 ~~subdivision~~, agency, bureau, or department, or other state or
248 local governmental instrumentality.

249 (j) ~~The term "dealer" is further defined to mean any person~~
250 ~~who~~ Leases, or grants a license to use, occupy, or enter upon,
251 living quarters, sleeping or housekeeping accommodations in
252 hotels, apartment houses, roominghouses, tourist or trailer
253 camps, real property, space or spaces in parking lots or garages
254 for motor vehicles, docking or storage space or spaces for boats
255 in boat docks or marinas, or tie-down or storage space or spaces
256 for aircraft at airports. The term includes ~~"dealer" also means~~
257 any person who has leased, occupied, or used or was entitled to
258 use any living quarters, sleeping or housekeeping accommodations
259 in hotels, apartment houses, roominghouses, tourist or trailer
260 camps, real property, space or spaces in parking lots or garages
261 for motor vehicles, or docking or storage space or spaces for
262 boats in boat docks or marinas, or who has purchased
263 communication services or electric power or energy, and who
264 cannot prove that the tax levied by this chapter has been paid
265 to the vendor or lessor on ~~any~~ such transactions. The term
266 ~~"dealer"~~ does not include a ~~any~~ person who leases, lets, rents,
267 or grants a license to use, occupy, or enter upon any living
268 quarters, sleeping quarters, or housekeeping accommodations in
269 apartment houses, roominghouses, tourist camps, or trailer
270 camps, and who exclusively enters into a bona fide written
271 agreement for continuous residence for longer than 6 months ~~in~~
272 ~~duration~~ with a ~~any~~ person who leases, lets, rents, or is
273 granted a license to use such property.



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274 (k) ~~"Dealer" also means any person who~~ Sells, provides, or
275 performs a service taxable under this chapter. The term includes
276 a "Dealer" also means any person who purchases, uses, or
277 consumes a service taxable under this chapter who cannot prove
278 that the tax levied by this chapter has been paid to the seller
279 of the taxable service.

280 (1) ~~"Dealer" also means any person who~~ Solicits, offers,
281 provides, enters into, issues, or delivers any service warranty
282 taxable under this chapter, or who receives, on behalf of such a
283 person, any consideration from a service warranty holder.

284 Section 3. (1) The Department of Revenue shall develop a
285 tracking system, in consultation with the Revenue Estimating
286 Conference, to determine the amount of sales taxes remitted by
287 out-of-state dealers who would otherwise not be required to
288 collect and remit sales taxes in the absence of the amendments
289 made to s. 212.0596, Florida Statutes, in section 1 of this act.
290 By February 1 of each year, the Department of Revenue shall
291 submit a report to the Governor, the President of the Senate,
292 and the Speaker of the House of Representatives which sets forth
293 the amount of sales taxes collected and remitted by such dealers
294 in the previous calendar year and the methodology used to
295 determine the amount.

296 (2) By March 1 of each year, the Revenue Estimating
297 Conference shall use the information provided by the Department
298 of Revenue pursuant to subsection (1) to determine the amount of
299 sales taxes remitted in the previous calendar year by such out-
300 of-state dealers who would otherwise not be required to collect
301 and remit sales taxes and estimate the amount that may be
302 expected in the following fiscal year.



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303 (3) The Legislature shall use the information provided by
304 the Department of Revenue and the Revenue Estimating Conference
305 to develop legislation designed to return the amount of those
306 sales taxes collected to the taxpayers of this state. If the
307 amount collected is determined to be of a recurring nature and
308 sufficient to lower tax rates, the Legislature shall reduce the
309 communication services tax rate set forth in chapter 202,
310 Florida Statutes. The legislature shall also implement a three
311 day sales tax holiday reduce taxes. Both actions shall reduce
312 tax collections in an amount not less than the amount determined
313 by the Revenue Estimating Conference.

314 Section 4. This act shall take effect February 1, 2014.

315
316 ===== T I T L E A M E N D M E N T =====

317 And the title is amended as follows:

318 Delete everything before the enacting clause
319 and insert:

320 A bill to be entitled
321 An act relating to taxes; amending s. 212.0596, F.S.;
322 revising the term "mail order sale" to specifically
323 include sales of tangible personal property ordered
324 through the Internet or from a dealer who receives the
325 order in a foreign country; providing that certain
326 persons who make mail order sales and who have a nexus
327 with this state are subject to this state's power to
328 levy and collect the sales and use tax when they
329 engage in certain enumerated activities; specifying
330 that dealers are not required to collect and remit
331 sales and use tax unless certain circumstances exist;



126132

332 creating a rebuttable presumption that a dealer is
333 subject to the state's power to levy and collect the
334 sales or use tax under specified circumstances;
335 specifying evidentiary proof that may be submitted to
336 rebut the presumption; amending s. 212.06, F.S.;

337 revising the definition of the term "dealer";
338 requiring that the Department of Revenue develop a
339 tracking system, in consultation with the Revenue
340 Estimating Conference, to determine the amount of
341 sales tax remitted by out-of-state dealers who would
342 otherwise not be required to collect and remit sales
343 taxes but for the amendments made by the act;

344 requiring that the department submit a report to the
345 Governor and Legislature by a specified date each
346 year; requiring that the Revenue Estimating Conference
347 use such report to determine the amount of sales taxes
348 remitted in the previous calendar year by such out-of-
349 state dealers and estimate the amount that may be
350 expected in the following fiscal year; requiring that
351 the Legislature use the information to reduce
352 communication services tax rates and provide a sales
353 tax holiday as deemed appropriate; providing an
354 effective date.

355



683512

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/11/2013	.	
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Appropriations Subcommittee on Finance and Tax (Brandes)
recommended the following:

Senate Amendment to Amendment (126132)

Delete line 130
and insert:
presumption arose. Beginning July 1, 2018, and every 5 years thereafter, the department shall calculate and publish an adjustment to the \$10,000 gross receipts amount based on the average percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, compiled by the United States Department of Labor for the immediately preceding 5 calendar years. The adjustment to the \$10,000 minimum shall be rounded to the nearest \$50 increment and take effect on the



683512

13 January 1 following the publication of the adjustment by the
14 department.



172076

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2013	.	
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Appropriations Subcommittee on Finance and Tax (Brandes)
recommended the following:

1 **Senate Amendment to Amendment (126132) (with title**
2 **amendment)**

3
4 Delete line 167
5 and insert:

6 (8) The Department of Revenue may not transfer, sell, or
7 exchange any personally identifiable information, including
8 geographic information, of any resident of this state which is
9 obtained from any dealer or any other state resident pursuant to
10 this section or through department audits, to any other
11 governmental entity or private entity, and may not use the
12 personally identifiable information of any state resident or



172076

13 state business for any purpose other than to implement the
14 explicit provisions of this section.

15 (9)~~(7)~~ The department may establish by rule procedures for
16

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

18 And the title is amended as follows:

19 Delete line 336

20 and insert:

21 rebut the presumption; expressly prohibiting the
22 department from selling any personally identifiable
23 information of any state resident or dealer, or using
24 such information for any other purpose except as
25 provided by law; amending s. 212.06, F.S.;



188326

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2013	.	
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Appropriations Subcommittee on Finance and Tax (Brandes)
recommended the following:

1 **Senate Amendment to Amendment (126132) (with title**
2 **amendment)**

3
4 Delete line 167
5 and insert:

6 (8) Any business that meets the requirements and faces the
7 circumstances described in this subsection is entitled to
8 declaratory relief on the issue of whether the requirement of
9 another state, or political subdivision of another state, to
10 collect and remit sales or use taxes to that state or political
11 subdivision, constitutes an undue burden on interstate commerce
12 within the meaning of clause 3 of s. 8, Art. I of the United



188326

13 States Constitution. A circuit court shall have original
14 jurisdiction over civil actions seeking a declaratory judgment
15 if:

16 (a) The party seeking declaratory relief is a business
17 that:

18 1. Is organized under the laws of this state or a sole
19 proprietorship owned by a domiciliary in this state; or

20 2. Has qualified to do business in this state; and

21 (b) The responding party is a government official of
22 another state, or political subdivision of another state, who
23 asserts that the business in question is obliged to collect
24 sales or use taxes for such state or political subdivision based
25 upon conduct of the business which occurs wholly or partially
26 within this state.

27 (9) (7) The department may establish by rule procedures for
28

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

30 And the title is amended as follows:

31 Delete line 336

32 and insert:

33 rebut the presumption; providing for declaratory
34 relief for a business in this state which is subject
35 to the action of another state seeking to collect
36 taxes for that state; amending s. 212.06, F.S.;



780744

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2013	.	
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	.	
	.	

Appropriations Subcommittee on Finance and Tax (Brandes)
recommended the following:

1 **Senate Amendment to Amendment (126132) (with title**
2 **amendment)**

3
4 Delete lines 303 - 313
5 and insert:

6 (3) The Legislature shall use the information provided by
7 the Department of Revenue and the Revenue Estimating Conference
8 to develop legislation designed to return the amount of sales
9 taxes collected from out-of-state dealers to the taxpayers of
10 this state. If the amount collected is determined to be of a
11 recurring nature and sufficient to lower tax rates, the
12 Legislature shall reduce the cost of tag and title fees imposed



780744

13 by the Department of Highway Safety and Motor Vehicles.

14

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

16 And the title is amended as follows:

17 Delete lines 352 - 353

18 and insert:

19 tag and title fees; providing an

By the Committee on Commerce and Tourism; and Senators Detert
and Margolis

577-01551A-13

2013316c1

1 A bill to be entitled
2 An act relating to taxes; amending s. 202.12, F.S.;
3 reducing the tax rate applied to the sale of
4 communications services; reducing the tax rate applied
5 to retail sales of direct-to-home satellite services;
6 amending s. 202.12001, F.S.; conforming rates to the
7 reduction of the communications services tax; amending
8 s. 203.001, F.S.; conforming rates to the reduction of
9 the communications services tax; amending s. 212.0596,
10 F.S.; revising the term "mail order sale" to
11 specifically include sales of tangible personal
12 property ordered through the Internet; deleting
13 certain provisions that specify dealer activities or
14 other circumstances that subject mail order sales to
15 this state's power to levy and collect the sales and
16 use tax; providing that certain persons who make mail
17 order sales and who have a nexus with this state are
18 subject to this state's power to levy and collect the
19 sales and use tax when they engage in certain
20 enumerated activities; specifying that dealers are not
21 required to collect and remit sales and use tax unless
22 certain circumstances exist; creating a rebuttable
23 presumption that a dealer is subject to the state's
24 power to levy and collect the sales or use tax under
25 specified circumstances; specifying evidentiary proof
26 that may be submitted to rebut the presumption;
27 amending s. 212.06, F.S.; revising the definition of
28 the term "dealer"; amending s. 212.08, F.S.; revising
29 the sales tax exemption from the sales tax for certain

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30 business purchases of industrial machinery and
31 equipment and spaceport activities; deleting certain
32 limitations on, and procedural requirements relating
33 to, the exemption; conforming cross-references;
34 requiring that the Department of Revenue develop a
35 tracking system, in consultation with the Revenue
36 Estimating Conference, to determine the amount of
37 sales tax remitted by out-of-state dealers who would
38 otherwise not be required to collect and remit sales
39 taxes but for the amendments made by the act;
40 requiring that the department submit a report to the
41 Governor and Legislature by a specified date each
42 year; requiring that the Revenue Estimating Conference
43 use such report to determine the amount of sales taxes
44 remitted in the previous calendar year by such out-of-
45 state dealers and estimate the amount that may be
46 expected in the following fiscal year; requiring that
47 the Legislature use the information to reduce tax
48 rates for other taxes as deemed appropriate; providing
49 effective dates.

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

52
53 Section 1. Effective January 1, 2014, paragraphs (a) and
54 (b) of subsection (1) of section 202.12, Florida Statutes, are
55 amended to read:

56 202.12 Sales of communications services.—The Legislature
57 finds that every person who engages in the business of selling
58 communications services at retail in this state is exercising a

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59 taxable privilege. It is the intent of the Legislature that the
60 tax imposed by chapter 203 be administered as provided in this
61 chapter.

62 (1) For the exercise of such privilege, a tax is levied on
63 each taxable transaction, and the tax is due and payable as
64 follows:

65 (a) Except as otherwise provided in this subsection, at a
66 rate of 5.65 percent ~~6.65 percent~~ applied to the sales price of
67 the communications service which:

- 68 1. Originates and terminates in this state, or
- 69 2. Originates or terminates in this state and is charged to
70 a service address in this state,

71
72 when sold at retail, computed on each taxable sale for the
73 purpose of remitting the tax due. The gross receipts tax imposed
74 by chapter 203 shall be collected on the same taxable
75 transactions and remitted with the tax imposed by this
76 paragraph. If no tax is imposed by this paragraph by reason of
77 s. 202.125(1), the tax imposed by chapter 203 shall nevertheless
78 be collected and remitted in the manner and at the time
79 prescribed for tax collections and remittances under this
80 chapter.

81 (b) At the rate of 9.8 percent ~~10.8 percent~~ on the retail
82 sales price of any direct-to-home satellite service received in
83 this state. The proceeds of the tax imposed under this paragraph
84 shall be accounted for and distributed in accordance with s.
85 202.18(2). The gross receipts tax imposed by chapter 203 shall
86 be collected on the same taxable transactions and remitted with
87 the tax imposed by this paragraph.

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88 Section 2. Effective January 1, 2014, section 202.12001,
89 Florida Statutes, is amended to read:

90 202.12001 Combined rate for tax collected pursuant to ss.
91 202.12(1) (a) and 203.01(1) (b).—In complying with ss. 1-3, ch.
92 2010-149, Laws of Florida, the dealer of communication services
93 may collect a combined rate of 5.8 percent ~~6.8 percent~~ comprised
94 of 5.65 percent ~~6.65 percent~~ and 0.15 percent required by ss.
95 202.12(1) (a) and 203.01(1) (b)3., respectively, as long as the
96 provider properly reflects the tax collected with respect to the
97 two provisions as required in the return to the Department of
98 Revenue.

99 Section 3. Effective January 1, 2014, section 203.001,
100 Florida Statutes, is amended to read:

101 203.001 Combined rate for tax collected pursuant to ss.
102 202.12(1) (a) and 203.01(1) (b).—In complying with ss. 1-3, ch.
103 2010-149, Laws of Florida, the dealer of communication services
104 may collect a combined rate of 5.8 percent ~~6.8 percent~~ comprised
105 of 5.65 percent ~~6.65 percent~~ and 0.15 percent required by ss.
106 202.12(1) (a) and 203.01(1) (b)3., respectively, as long as the
107 provider properly reflects the tax collected with respect to the
108 two provisions as required in the return to the Department of
109 Revenue.

110 Section 4. Section 212.0596, Florida Statutes, is amended
111 to read:

112 212.0596 Taxation of mail order sales.—

113 (1) For purposes of this chapter, a "mail order sale" is a
114 sale of tangible personal property, ordered by mail, the
115 Internet, or other means of communication, from a dealer who
116 receives the order in another state ~~of the United States~~, or in

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117 a commonwealth, territory, or other area under the jurisdiction
 118 of the United States, and transports the property or causes the
 119 property to be transported, whether or not by mail, from any
 120 jurisdiction of the United States, including this state, to a
 121 person in this state, including the person who ordered the
 122 property.

123 (2) Every dealer as defined in s. 212.06(2)(c) who makes a
 124 mail order sale is subject to the power of this state to levy
 125 and collect the tax imposed by this chapter if ~~when~~:

126 (a) The dealer is ~~a corporation~~ doing business under the
 127 laws of this state or is a person domiciled in, a resident of,
 128 or a citizen of, this state;

129 (b) The dealer maintains retail establishments or offices
 130 in this state, whether the mail order sales ~~thus~~ subject to
 131 taxation by this state result from or are related in any other
 132 way to the activities of such establishments or offices;

133 (c) The dealer has agents or representatives in this state
 134 who solicit business or transact business on behalf of the
 135 dealer, whether the mail order sales ~~thus~~ subject to taxation by
 136 this state result from or are related in any other way to such
 137 solicitation or transaction of business, except that a printer
 138 who mails or delivers for an out-of-state print purchaser
 139 material the printer printed for it is ~~shall~~ not be deemed to be
 140 the print purchaser's agent or representative for purposes of
 141 this paragraph;

142 ~~(d) The property was delivered in this state in fulfillment~~
 143 ~~of a sales contract that was entered into in this state, in~~
 144 ~~accordance with applicable conflict of laws rules, when a person~~
 145 ~~in this state accepted an offer by ordering the property;~~

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146 ~~(e) The dealer, by purposefully or systematically~~
 147 ~~exploiting the market provided by this state by any media-~~
 148 ~~assisted, media-facilitated, or media-solicited means,~~
 149 ~~including, but not limited to, direct mail advertising,~~
 150 ~~unsolicited distribution of catalogs, computer-assisted~~
 151 ~~shopping, television, radio, or other electronic media, or~~
 152 ~~magazine or newspaper advertisements or other media, creates~~
 153 ~~nexus with this state;~~

154 ~~(f) Through compact or reciprocity with another~~
 155 ~~jurisdiction of the United States, that jurisdiction uses its~~
 156 ~~taxing power and its jurisdiction over the retailer in support~~
 157 ~~of this state's taxing power;~~

158 (d)(g) The dealer consents, expressly or by implication, to
 159 the imposition of the tax imposed by this chapter;

160 ~~(h) The dealer is subject to service of process under s.~~
 161 ~~48.181;~~

162 (e)(i) The dealer's mail order sales are subject to the
 163 power of this state to tax sales or to require the dealer to
 164 collect use taxes pursuant to federal law under a statute or
 165 ~~statutes of the United States;~~

166 (f)(j) The dealer owns real property or tangible personal
 167 property that is physically in this state, except that a dealer
 168 whose only property, ~~(including property owned by an affiliate,~~
 169 in this state is located at the premises of a printer with which
 170 the vendor has contracted for printing, and is ~~either~~ a final
 171 printed product, ~~or~~ property that ~~which~~ becomes a part of the
 172 final printed product, or property from which the printed
 173 product is produced, is not deemed to own such property for
 174 purposes of this paragraph;

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175 ~~(g) (k)~~ The dealer, while not having nexus with this state
 176 on any of the bases described in paragraphs ~~(a)-(f) (a)-(j)~~ or
 177 paragraphs (h)-(i) paragraph (l), is a corporation that is a
 178 member of an affiliated group of corporations, as defined in s.
 179 1504(a) of the Internal Revenue Code, whose members are
 180 includable under s. 1504(b) of the Internal Revenue Code and
 181 whose members are eligible to file a consolidated tax return for
 182 federal corporate income tax purposes and any parent or
 183 subsidiary corporation in the affiliated group has nexus with
 184 this state on one or more of the bases described in paragraphs
 185 ~~(a)-(f) (a)-(j)~~ or paragraphs (h)-(i) paragraph (l); or

186 (h) A person, other than a person acting in the capacity of
 187 a common carrier, has nexus with this state and:

188 1. Sells a similar line of products as the dealer and does
 189 so under the same or a similar business name;

190 2. Maintains an office, distribution facility, warehouse,
 191 storage place, or similar place of business in this state to
 192 facilitate the delivery of property or services sold by the
 193 dealer to the dealer's customers;

194 3. Uses trademarks, service marks, or trade names in this
 195 state which are the same or substantially similar to those used
 196 by the dealer;

197 4. Delivers, installs, assembles, or performs maintenance
 198 services for the dealer's customers in this state;

199 5. Facilitates the dealer's delivery of property to
 200 customers in this state by allowing the dealer's customers to
 201 pick up property sold by the dealer at an office, distribution
 202 facility, warehouse, storage place, or similar place of business
 203 maintained by the person in this state; or

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204 6. Conducts any other activities in this state which are
 205 significantly associated with the dealer's ability to establish
 206 and maintain a market in this state for the dealer's sales; or

207 ~~(i) (l)~~ The dealer or the dealer's activities have
 208 sufficient connection with or relationship to this state or its
 209 residents of some type other than those described in paragraphs
 210 ~~(a)-(h) (a)-(k)~~ to create a nexus empowering this state to tax
 211 its mail order sales or to require the dealer to collect sales
 212 tax or accrue use tax.

213
 214 Notwithstanding other provisions of law, a dealer is not
 215 required to collect and remit sales or use tax under this
 216 subsection unless the dealer has a physical presence in this
 217 state or the activities conducted in this state on the dealer's
 218 behalf are significantly associated with the dealer's ability to
 219 establish and maintain a market for sales in this state.

220 (3) (a) Notwithstanding other provisions of law or this
 221 section, there is a rebuttable presumption that every dealer, as
 222 defined in s. 212.06, who makes a mail order sale is also
 223 subject to the power of this state to levy and collect the tax
 224 imposed by this chapter if the dealer enters into an agreement
 225 with one or more residents of this state under which the
 226 resident, for a commission or other consideration, directly or
 227 indirectly refers potential customers, whether by a link on an
 228 Internet website, an in-person oral presentation, telemarketing,
 229 or otherwise, to the dealer, if the cumulative gross receipts
 230 from sales by the dealer to customers in this state who are
 231 referred to the dealer by all residents having this type of an
 232 agreement with the dealer is in excess of \$10,000 during the 12

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233 months immediately before the rebuttable presumption arose.

234 (b) The presumption in paragraph (a) may be rebutted by the
 235 submission of evidence proving that the residents with whom the
 236 dealer has an agreement did not engage in any activity within
 237 this state which was significantly associated with the dealer's
 238 ability to establish or maintain the dealer's market in this
 239 state during the 12 months immediately before the rebuttable
 240 presumption arose. The evidence may consist of sworn affidavits,
 241 obtained and given in good faith, from each resident with whom
 242 the dealer has an agreement attesting that he or she did not
 243 engage in any solicitation in this state on the dealer's behalf
 244 during the previous year.

245 (4)(3) A Every dealer engaged in the business of making
 246 mail order sales is subject to the requirements of this chapter
 247 for cooperation of dealers in collection of taxes and in
 248 administration of this chapter, except that a fee may not
 249 ~~shall~~ be imposed upon such dealer for carrying out any required
 250 activity.

251 (5)(4) The department shall, with the consent of another
 252 jurisdiction of the United States whose cooperation is needed,
 253 enforce this chapter in that jurisdiction, ~~either~~ directly or,
 254 at the option of that jurisdiction, through its officers or
 255 employees.

256 (6)(5) The tax required under this section to be collected
 257 and any amount unreturned to a purchaser which that is not tax
 258 but was collected from the purchaser under the representation
 259 that it was tax constitute funds of this the state ~~of Florida~~
 260 from the moment of collection.

261 (7)(6) Notwithstanding other provisions of law, a dealer

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262 who makes a mail order sale in this state is exempt from
 263 collecting and remitting any local option surtax on the sale,
 264 unless the dealer is located in a county that imposes a surtax
 265 within the meaning of s. 212.054(3)(a), the order is placed
 266 through the dealer's location in such county, and the property
 267 purchased is delivered into such county or into another county
 268 in this state ~~which that~~ levies the surtax, in which case the
 269 provisions of s. 212.054(3)(a) are applicable.

270 (8)(7) The department may establish by rule procedures for
 271 collecting the use tax from unregistered persons who but for
 272 their mail order purchases would not be required to remit sales
 273 or use tax directly to the department. The procedures may
 274 provide for waiver of registration and registration fees,
 275 provisions for irregular remittance of tax, elimination of the
 276 collection allowance, and nonapplication of local option
 277 surtaxes.

278 Section 5. Subsection (2) of section 212.06, Florida
 279 Statutes, is amended to read:

280 212.06 Sales, storage, use tax; collectible from dealers;
 281 "dealer" defined; dealers to collect from purchasers;
 282 legislative intent as to scope of tax.-

283 (2)(a) The term "dealer," as used in this chapter, means a
 284 ~~includes every~~ person who:

285 (a) Manufactures or produces tangible personal property for
 286 sale at retail; for use, consumption, or distribution; or for
 287 storage to be used or consumed in this state.

288 ~~(b) The term "dealer" is further defined to mean every~~
 289 ~~person, as used in this chapter, who~~ Imports, or causes to be
 290 imported, tangible personal property from any state or foreign

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291 country for sale at retail; for use, consumption, or
 292 distribution; or for storage to be used or consumed in this
 293 state.

294 (c) ~~The term "dealer" is further defined to mean every~~
 295 ~~person, as used in this chapter, who Sells at retail or who~~
 296 offers for sale at retail, or ~~who~~ has in his or her possession
 297 for sale at retail; ~~or~~ for use, consumption, or distribution; or
 298 for storage to be used or consumed in this state, tangible
 299 personal property ~~as defined herein~~, including a retailer who
 300 transacts a mail order sale.

301 (d) ~~The term "dealer" is further defined to mean any person~~
 302 ~~who~~ Has sold at retail; ~~or~~ used, ~~or~~ consumed, or distributed; or
 303 stored for use or consumption in this state, tangible personal
 304 property and ~~who~~ cannot prove that the tax levied by this
 305 chapter has been paid on the sale at retail, the use, the
 306 consumption, the distribution, or the storage of such tangible
 307 personal property. ~~However~~, The term "dealer" does not include
 308 mean a person who is not a "dealer" as otherwise defined in
 309 under the definition of any other paragraph of this subsection
 310 and whose only owned or leased property, ~~(including property~~
 311 owned or leased by an affiliate, ~~)~~ in this state is located at
 312 the premises of a printer with which it has contracted for
 313 printing, if such property consists of the final printed
 314 product, property which becomes a part of the final printed
 315 product, or property from which the printed product is produced.

316 (e) ~~The term "dealer" is further defined to mean any~~
 317 ~~person, as used in this chapter, who~~ Leases or rents tangible
 318 personal property, ~~as defined in this chapter~~, for a
 319 consideration, permitting the use or possession of such property

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320 without transferring title thereto, except as expressly provided
 321 in this chapter for to the contrary herein.

322 (f) ~~The term "dealer" is further defined to mean any~~
 323 ~~person, as used in this chapter, who~~ Maintains or uses has
 324 within this state, ~~directly or by a subsidiary~~, an office,
 325 distributing house, salesroom, or house, warehouse, or other
 326 place of business operated by any person other than a common
 327 carrier acting in the capacity of a common carrier.

328 (g) ~~"Dealer" also means and includes every person who~~
 329 Solicits business ~~either~~ by direct representatives, indirect
 330 representatives, or manufacturers' agents; by distribution of
 331 catalogs or other advertising matter; or by any other means
 332 whatsoever, and by reason thereof receives orders for tangible
 333 personal property from consumers for use, consumption,
 334 distribution, and storage for use or consumption in the state. ~~+~~
 335 Such dealer shall collect the tax imposed by this chapter from
 336 the purchaser, and no action, ~~either~~ in law or in equity, on a
 337 sale or transaction as provided by ~~the terms of this chapter~~ may
 338 be had in this state by ~~any~~ such dealer unless it is
 339 affirmatively shown that the provisions of this chapter have
 340 been fully complied with.

341 (h) ~~"Dealer" also means and includes every person who~~, As a
 342 representative, agent, or solicitor of an out-of-state principal
 343 or principals, solicits, receives, and accepts orders from
 344 consumers in the state for future delivery and whose principal
 345 refuses to register as a dealer.

346 (i) Constitutes ~~"Dealer" also means and includes the state~~
 347 or any, county, municipality, district ~~any political~~
 348 ~~subdivision~~, agency, bureau, ~~or~~ department, or other state or

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349 local governmental instrumentality.

350 (j) ~~The term "dealer" is further defined to mean any person~~
 351 ~~who~~ Leases, or grants a license to use, occupy, or enter upon,
 352 living quarters, sleeping or housekeeping accommodations in
 353 hotels, apartment houses, roominghouses, tourist or trailer
 354 camps, real property, space or spaces in parking lots or garages
 355 for motor vehicles, docking or storage space or spaces for boats
 356 in boat docks or marinas, or tie-down or storage space or spaces
 357 for aircraft at airports. The term includes ~~"dealer" also means~~
 358 any person who has leased, occupied, or used or was entitled to
 359 use any living quarters, sleeping or housekeeping accommodations
 360 in hotels, apartment houses, roominghouses, tourist or trailer
 361 camps, real property, space or spaces in parking lots or garages
 362 for motor vehicles, or docking or storage space or spaces for
 363 boats in boat docks or marinas, or who has purchased
 364 communication services or electric power or energy, and who
 365 cannot prove that the tax levied by this chapter has been paid
 366 to the vendor or lessor on any such transactions. The term
 367 ~~"dealer"~~ does not include a ~~any~~ person who leases, lets, rents,
 368 or grants a license to use, occupy, or enter upon any living
 369 quarters, sleeping quarters, or housekeeping accommodations in
 370 apartment houses, roominghouses, tourist camps, or trailer
 371 camps, and who exclusively enters into a bona fide written
 372 agreement for continuous residence for longer than 6 months ~~in~~
 373 ~~duration~~ with a ~~any~~ person who leases, lets, rents, or is
 374 granted a license to use such property.

375 (k) ~~"Dealer" also means any person who~~ Sells, provides, or
 376 performs a service taxable under this chapter. The term includes
 377 a "Dealer" also means any person who purchases, uses, or

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378 consumes a service taxable under this chapter who cannot prove
 379 that the tax levied by this chapter has been paid to the seller
 380 of the taxable service.

381 (l) ~~"Dealer" also means any person who~~ Solicits, offers,
 382 provides, enters into, issues, or delivers any service warranty
 383 taxable under this chapter, or who receives, on behalf of such a
 384 person, any consideration from a service warranty holder.

385 Section 6. Paragraphs (b), (d), and (h) of subsection (5)
 386 of section 212.08, Florida Statutes, are amended to read:

387 212.08 Sales, rental, use, consumption, distribution, and
 388 storage tax; specified exemptions.—The sale at retail, the
 389 rental, the use, the consumption, the distribution, and the
 390 storage to be used or consumed in this state of the following
 391 are hereby specifically exempt from the tax imposed by this
 392 chapter.

393 (5) EXEMPTIONS; ACCOUNT OF USE.—

394 (b) Industrial machinery and equipment used by
 395 manufacturers or used exclusively in spaceport activities to
 396 increase productive output.—

397 1. Industrial machinery and equipment purchased for
 398 exclusive use in businesses that manufacture, process, compound,
 399 or produce for sale items of tangible personal property at fixed
 400 locations or for exclusive use by a new business in spaceport
 401 activities as defined by s. 212.02 ~~or for use in new businesses~~
 402 ~~that manufacture, process, compound, or produce for sale items~~
 403 ~~of tangible personal property at fixed locations~~ are exempt from
 404 the tax imposed by this chapter if, at the time of purchase, the
 405 purchaser furnishes the seller with a signed certificate stating
 406 that the items to be exempted are for exclusive use as provided

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407 in this paragraph. The certificate relieves the seller of the
 408 responsibility of collecting the tax on the sale of such items
 409 and the department shall look solely to the purchaser for
 410 recovery of the tax if it determines that the purchaser was not
 411 entitled to the exemption upon an affirmative showing by the
 412 taxpayer to the satisfaction of the department that such items
 413 are used in a new business in this state. Such purchases must be
 414 made before the date the business first begins its productive
 415 operations, and delivery of the purchased item must be made
 416 within 12 months after that date.

417 2. Industrial machinery and equipment purchased for
 418 exclusive use by an expanding facility which is engaged in
 419 spaceport activities as defined by s. 212.02 or for use in
 420 expanding manufacturing facilities or plant units which
 421 manufacture, process, compound, or produce for sale items of
 422 tangible personal property at fixed locations in this state are
 423 exempt from any amount of tax imposed by this chapter upon an
 424 affirmative showing by the taxpayer to the satisfaction of the
 425 department that such items are used to increase the productive
 426 output of such expanded facility or business by not less than 5
 427 percent.

428 3.a. ~~To receive an exemption provided by subparagraph 1. or~~
 429 ~~subparagraph 2., a qualifying business entity shall apply to the~~
 430 ~~department for a temporary tax exemption permit. The application~~
 431 ~~shall state that a new business exemption or expanded business~~
 432 ~~exemption is being sought. Upon a tentative affirmative~~
 433 ~~determination by the department pursuant to subparagraph 1. or~~
 434 ~~subparagraph 2., the department shall issue such permit.~~

435 b. The applicant shall maintain all necessary books and

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436 ~~records to support the exemption. Upon completion of purchases~~
 437 ~~of qualified machinery and equipment pursuant to subparagraph 1.~~
 438 ~~or subparagraph 2., the temporary tax permit shall be delivered~~
 439 ~~to the department or returned to the department by certified or~~
 440 ~~registered mail.~~

441 e. ~~If, in a subsequent audit conducted by the department,~~
 442 ~~it is determined that the machinery and equipment purchased as~~
 443 ~~exempt under subparagraph 1. or subparagraph 2. did not meet the~~
 444 ~~criteria mandated by this paragraph or if commencement of~~
 445 ~~production did not occur, the amount of taxes exempted at the~~
 446 ~~time of purchase shall immediately be due and payable to the~~
 447 ~~department by the business entity, together with the appropriate~~
 448 ~~interest and penalty, computed from the date of purchase, in the~~
 449 ~~manner prescribed by this chapter.~~

450 d. ~~If a qualifying business entity fails to apply for a~~
 451 ~~temporary exemption permit or if the tentative determination by~~
 452 ~~the department required to obtain a temporary exemption permit~~
 453 ~~is negative, a qualifying business entity shall receive the~~
 454 ~~exemption provided in subparagraph 1. or subparagraph 2. through~~
 455 ~~a refund of previously paid taxes. No refund may be made for~~
 456 ~~such taxes unless the criteria mandated by subparagraph 1. or~~
 457 ~~subparagraph 2. have been met and commencement of production has~~
 458 ~~occurred.~~

459 4. ~~The department shall adopt rules governing applications~~
 460 ~~for, issuance of, and the form of temporary tax exemption~~
 461 ~~permits; provisions for recapture of taxes; and the manner and~~
 462 ~~form of refund applications, and may establish guidelines as to~~
 463 ~~the requisites for an affirmative showing of increased~~
 464 ~~productive output, commencement of production, and qualification~~

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465 ~~for exemption.~~

466 2.5- The exemption does ~~exemptions provided in~~
 467 ~~subparagraphs 1. and 2. do~~ not apply to machinery or equipment
 468 purchased or used by electric utility companies, communications
 469 companies, oil or gas exploration or production operations,
 470 publishing firms that do not export at least 50 percent of their
 471 finished product out of the state, any firm subject to
 472 regulation by the Division of Hotels and Restaurants of the
 473 Department of Business and Professional Regulation, or any firm
 474 that does not manufacture, process, compound, or produce for
 475 sale items of tangible personal property or that does not use
 476 such machinery and equipment in spaceport activities as required
 477 by this paragraph. The exemption does apply ~~exemptions provided~~
 478 ~~in subparagraphs 1. and 2. shall apply~~ to machinery and
 479 equipment purchased for use in phosphate or other solid minerals
 480 severance, mining, or processing operations.

481 3.6- For the purposes of the exemption, the term exemptions
 482 ~~provided in subparagraphs 1. and 2.,~~ these terms have the
 483 following meanings:

484 a. "industrial machinery and equipment" means tangible
 485 personal property or other property that has a depreciable life
 486 of 3 years or more and ~~that~~ is used as an integral part in the
 487 manufacturing, processing, compounding, or production of
 488 tangible personal property for sale or is exclusively used in
 489 spaceport activities. A building and its structural components
 490 are not industrial machinery and equipment unless the building
 491 or structural component is so closely related to the industrial
 492 machinery and equipment that it houses or supports that the
 493 building or structural component can be expected to be replaced

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494 when the machinery and equipment are replaced. Heating and air-
 495 conditioning systems are not industrial machinery and equipment
 496 unless the sole justification for their installation is to meet
 497 the requirements of the production process, even though the
 498 system may provide incidental comfort to employees or serve, to
 499 an insubstantial degree, nonproduction activities. The term
 500 includes parts and accessories for industrial machinery and
 501 equipment ~~only to the extent that the exemption thereof is~~
 502 ~~consistent with the provisions of this paragraph.~~

503 b. "~~Productive output~~" means the number of units actually
 504 produced by a single plant, operation, or product line in a
 505 single continuous 12-month period, ~~irrespective of sales.~~
 506 Increases in productive output shall be measured by the output
 507 for 12 continuous months selected by the expanding business
 508 after completion of the installation of such machinery or
 509 equipment over the output for the 12 continuous months
 510 immediately preceding such installation. However, in no case may
 511 such time period begin later than 2 years after completion of
 512 the installation of the new machinery and equipment. The units
 513 used to measure productive output shall be physically comparable
 514 between the two periods, irrespective of sales.

515 (d) *Machinery and equipment used under federal procurement*
 516 *contract.-*

517 1. Industrial machinery and equipment purchased by an
 518 expanding business ~~that~~ which manufactures tangible personal
 519 property pursuant to federal procurement regulations at fixed
 520 locations in this state are exempt from the tax imposed in this
 521 chapter upon an affirmative showing by the taxpayer to the
 522 satisfaction of the department that such items are used to

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523 increase the implicit productive output of the expanded business
 524 by not less than 10 percent. The percentage of increase is
 525 measured as deflated implicit productive output for the calendar
 526 year during which the installation of the machinery or equipment
 527 is completed or during which commencement of production
 528 utilizing such items is begun divided by the implicit productive
 529 output for the preceding calendar year. ~~In no case may~~ The
 530 commencement of production may not begin later than 2 years
 531 after completing ~~following completion of~~ installation of the
 532 machinery or equipment.

533 2. The amount of the exemption allowed must ~~shall~~ equal the
 534 taxes otherwise imposed by this chapter on qualifying industrial
 535 machinery or equipment reduced by the percentage of gross
 536 receipts from cost-reimbursement type contracts attributable to
 537 the plant or operation to total gross receipts so attributable,
 538 accrued for the year of completion or commencement.

539 3. The exemption provided by this paragraph shall inure to
 540 the taxpayer only through a refund of previously paid taxes.
 541 Such refund shall be made within 30 days after ~~of~~ formal
 542 approval by the department of the taxpayer's application, which
 543 application may be made on an annual basis following
 544 installation of the machinery or equipment.

545 4. For the purposes of this paragraph, the term:

546 a. "Cost-reimbursement type contracts" has the same meaning
 547 as in 32 C.F.R. s. 3-405.

548 b. "Deflated implicit productive output" means the product
 549 of implicit productive output times the quotient of the national
 550 defense implicit price deflator for the preceding calendar year
 551 divided by the deflator for the year of completion or

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552 commencement.

553 c. "Eligible costs" means the total direct and indirect
 554 costs, as defined in 32 C.F.R. ss. 15-202 and 15-203, excluding
 555 general and administrative costs, selling expenses, and profit,
 556 defined by the uniform cost-accounting standards adopted by the
 557 Cost-Accounting Standards Board created pursuant to 50 U.S.C. s.
 558 2168.

559 d. "Implicit productive output" means the annual eligible
 560 costs attributable to all contracts or subcontracts subject to
 561 federal procurement regulations of the single plant or operation
 562 at which the machinery or equipment is used.

563 e. "Industrial machinery and equipment" means tangible
 564 personal property or other property that has a depreciable life
 565 of 3 years or more, that qualifies as an eligible cost under
 566 federal procurement regulations, and that is used as an integral
 567 part of the process of production of tangible personal property.
 568 A building and its structural components are not industrial
 569 machinery and equipment unless the building or structural
 570 component is so closely related to the industrial machinery and
 571 equipment that it houses or supports that the building or
 572 structural component can be expected to be replaced when the
 573 machinery and equipment are replaced. Heating and air-
 574 conditioning systems are not industrial machinery and equipment
 575 unless the sole justification for their installation is to meet
 576 the requirements of the production process, even though the
 577 system may provide incidental comfort to employees or serve, to
 578 an insubstantial degree, nonproduction activities. The term
 579 includes parts and accessories only to the extent that the
 580 exemption of such parts and accessories is consistent with the

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581 provisions of this paragraph.

582 f. "National defense implicit price deflator" means the
583 national defense implicit price deflator for the gross national
584 product as determined by the Bureau of Economic Analysis of the
585 United States Department of Commerce.

586 5. The exclusions provided in subparagraph ~~(b)2.~~ ~~(b)5-~~
587 apply to this exemption. This exemption applies only to
588 machinery or equipment purchased pursuant to production
589 contracts with the United States Department of Defense and Armed
590 Forces, the National Aeronautics and Space Administration, and
591 other federal agencies for which the contracts are classified
592 for national security reasons. ~~In no event shall~~ The provisions
593 of this paragraph do not apply to an any expanding business
594 whose the increase in productive output is measurable of which
595 could be measured under the provisions of sub-subparagraph
596 (b)6.b. as physically comparable between the two periods. As
597 used in this subparagraph, the term "productive output" means
598 the number of units actually produced by a single plant,
599 operation, or product line in a single continuous 12-month
600 period, irrespective of sales. Increases in productive output
601 shall be measured by dividing the output for 12 continuous
602 months selected by the expanding business after completing the
603 installation of machinery or equipment by the output for the 12
604 continuous months immediately preceding such installation.
605 However, such time period may not commence 2 years after
606 completing the installation. The units used to measure
607 productive output must be physically comparable between the two
608 periods, irrespective of sales.

609 (h) *Business property used in an enterprise zone.-*

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610 1. Business property purchased for use by businesses
611 located in an enterprise zone which is subsequently used in an
612 enterprise zone ~~is shall be~~ exempt from the tax imposed by this
613 chapter. This exemption inures to the business only through a
614 refund of previously paid taxes. A refund shall be authorized
615 upon an affirmative showing by the taxpayer, to the satisfaction
616 of the department, that the requirements of this paragraph have
617 been met.

618 2. To receive a refund, the business must file ~~under oath~~
619 with the governing body or enterprise zone development agency
620 having jurisdiction over the enterprise zone where the business
621 is located, as applicable, an application, under oath, which
622 includes:

- 623 a. The name and address of the business claiming the
624 refund.
- 625 b. The identifying number assigned pursuant to s. 290.0065
626 to the enterprise zone in which the business is located.
- 627 c. A specific description of the property for which a
628 refund is sought, including its serial number or other permanent
629 identification number.
- 630 d. The location of the property.
- 631 e. The sales invoice or other proof of purchase of the
632 property, showing the amount of sales tax paid, the date of
633 purchase, and the name and address of the sales tax dealer from
634 whom the property was purchased.
- 635 f. Whether the business is a small business as defined in
636 ~~by~~ s. 288.703.
- 637 g. If applicable, the name and address of each permanent
638 employee of the business, including, for each employee who is a

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639 resident of an enterprise zone, the identifying number assigned
640 pursuant to s. 290.0065 to the enterprise zone in which the
641 employee resides.

642 3. Within 10 working days after receipt of an application,
643 the governing body or enterprise zone development agency shall
644 review the application to determine if it contains all the
645 information required pursuant to subparagraph 2. and meets the
646 criteria set out in this paragraph. The governing body or agency
647 shall certify all applications that contain the information
648 required pursuant to subparagraph 2. and meet the criteria set
649 out in this paragraph as eligible to receive a refund. If
650 applicable, the governing body or agency shall also certify if
651 20 percent of the employees of the business are residents of an
652 enterprise zone, excluding temporary and part-time employees.
653 The certification must ~~shall~~ be in writing, and a copy of the
654 certification must ~~shall~~ be transmitted to the executive
655 director of the Department of Revenue. The business is ~~shall be~~
656 responsible for forwarding a certified application to the
657 department within the time specified in subparagraph 4.

658 4. An application for a refund pursuant to this paragraph
659 must be submitted to the department within 6 months after the
660 tax is due on the business property that is purchased.

661 5. The amount refunded on purchases of business property
662 under this paragraph shall be the lesser of 97 percent of the
663 sales tax paid on such business property or \$5,000, or, if up to
664 ~~no less than~~ 20 percent of the employees of the business are
665 residents of an enterprise zone, excluding temporary and part-
666 time employees, the amount ~~refunded on purchases of business~~
667 ~~property under this paragraph~~ shall be the lesser of 97 percent

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668 of the sales tax paid on such business property or \$10,000. A
669 refund must ~~approved pursuant to this paragraph shall~~ be made
670 within 30 days after formal approval by the department of the
671 application for the refund. A refund may not be granted ~~under~~
672 ~~this paragraph~~ unless the amount to be refunded exceeds \$100 in
673 sales tax paid on purchases made within a 60-day time period.

674 6. The department shall adopt rules governing the manner
675 and form of refund applications and may establish guidelines as
676 to the requisites for an affirmative showing of qualification
677 for exemption under this paragraph.

678 7. If the department determines that the business property
679 is used outside an enterprise zone within 3 years after ~~from~~ the
680 date of purchase, the amount of taxes refunded to the business
681 purchasing such business property is ~~shall~~ immediately ~~be~~ due
682 and payable to the department by the business, together with the
683 appropriate interest and penalty, computed from the date of
684 purchase, in the manner provided by this chapter.

685 Notwithstanding this subparagraph, business property used
686 exclusively in:

- 687 a. Licensed commercial fishing vessels,
- 688 b. Fishing guide boats, or
- 689 c. Ecotourism guide boats

690 that leave and return to a fixed location within an area
691 designated under s. 379.2353, Florida Statutes 2010, are
692 eligible for the exemption ~~provided under this paragraph~~ if all
693 requirements of this paragraph are met. Such vessels and boats
694 must be owned by a business that is eligible to receive the
695 exemption ~~provided under this paragraph~~. This exemption does not
696

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697 apply to the purchase of a vessel or boat.

698 8. The department shall deduct an amount equal to 10
699 percent of each refund granted under this paragraph from the
700 amount transferred into the Local Government Half-cent Sales Tax
701 Clearing Trust Fund pursuant to s. 212.20 for the county area in
702 which the business property is located and shall transfer that
703 amount to the General Revenue Fund.

704 9. For the purposes of this exemption, the term "business
705 property" means new or used property defined as "recovery
706 property" in s. 168(c) of the Internal Revenue Code of 1954, as
707 amended, except:

708 a. Property classified as 3-year property under s.
709 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

710 b. Industrial machinery and equipment as defined in
711 subparagraph (b)3. ~~sub-subparagraph (b)6.a.~~ and eligible for
712 exemption under paragraph (b);

713 c. Building materials as defined in sub-subparagraph
714 (g)8.a.; and

715 d. Business property having a sales price of under \$5,000
716 per unit.

717 10. This paragraph expires on the date specified in s.
718 290.016 for the expiration of the Florida Enterprise Zone Act.

719 Section 7. (1) The Department of Revenue shall develop a
720 tracking system, in consultation with the Revenue Estimating
721 Conference, to determine the amount of sales taxes remitted by
722 out-of-state dealers who would otherwise not be required to
723 collect and remit sales taxes in the absence of the amendments
724 made to s. 212.0596, Florida Statutes, in section 1 of this act.
725 By February 1 of each year, the Department of Revenue shall

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726 submit a report to the Governor, the President of the Senate,
727 and the Speaker of the House of Representatives which sets forth
728 the amount of sales taxes collected and remitted by such dealers
729 in the previous calendar year and the methodology used to
730 determine the amount.

731 (2) By March 1 of each year, the Revenue Estimating
732 Conference shall use the information provided by the Department
733 of Revenue pursuant to subsection (1) to determine the amount of
734 sales taxes remitted in the previous calendar year by such out-
735 of-state dealers who would otherwise not be required to collect
736 and remit sales taxes and estimate the amount that may be
737 expected in the following fiscal year.

738 (3) The Legislature shall use the information provided by
739 the Department of Revenue and the Revenue Estimating Conference
740 to develop legislation designed to return the amount of those
741 sales taxes collected to the taxpayers of this state. The
742 Legislature shall reduce taxes in an amount not less than the
743 amount determined by the Revenue Estimating Conference. Such
744 reduction shall take into account reductions already provided in
745 this act in sections 3, 4, 5, and 6 of this act. If the amount
746 collected is determined to be of a recurring nature and
747 sufficient to lower tax rates, the Legislature may provide other
748 permanent tax relief as it deems appropriate.

749 Section 8. Except as otherwise expressly provided in this
750 act and except for this section, which shall take effect upon
751 this act becoming a law, this act shall take effect July 1,
752 2013.

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 Appropriations Subcommittee on Finance and Tax

BILL: CS/CS/SB 554

INTRODUCER: Community Affairs Committee; Environmental Preservation and Conservation Committee; and Senator Altman

SUBJECT: Brownfields

DATE: April 11, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gudeman</u>	<u>Uchino</u>	<u>EP</u>	Fav/CS
2.	<u>Anderson</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
3.	<u>Fournier</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Favorable
4.	_____	_____	<u>AP</u>	_____
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 554 amends procedures that must be followed in order to designate brownfield areas under the Brownfields Redevelopment Act. The bill also provides additional liability protection for individuals responsible for the rehabilitation of a brownfield site.

This bill has no impact on state or local revenues.

This bill amends ss. 376.78, 376.80, and 376.82 of the Florida Statutes.

II. Present Situation:

The Brownfields Redevelopment Act

The term “brownfield” came into existence in the 1970s and originally referred to any previously developed property, regardless of any contamination issues. The term, as it is currently used, originated in 1992 during a U.S. Congressional field hearing and is defined by the U.S. Environmental Protection Agency (EPA) as, “real property, the expansion, redevelopment, or

reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”¹ In 1995, the EPA created the Brownfields Program in order to manage contaminated property through site remediation and redevelopment. The program was designed to provide local communities around the country access to federal funds that have been allocated for redevelopment, including environmental assessments and cleanups, environmental health studies, and environmental training programs.²

In 1997, the Legislature enacted the Brownfields Redevelopment Act (Act).³ The Act provides financial and regulatory incentives to encourage voluntary remediation and redevelopment of brownfield sites in order to improve public health and reduce environmental hazards.⁴ The Act required the Department of Environmental Protection (DEP) to adopt rules to determine site-specific investigation methods, clean-up methods, and clean-up target levels by incorporating risk based corrective action (RBCA) principles.⁵ The Brownfields Cleanup Criteria Rule, Rule 62-785 of the Florida Administrative Code (F.A.C.), was adopted by the DEP on April 30, 1998, and became effective July 6, 1998.⁶

The Act provides liability protection for program participants who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997. A person who successfully completes a brownfield site rehabilitation agreement (BSRA) is relieved from further liability for remediation of the contaminated site or sites to the state and to third parties, and of liability in contribution to any other party who has or may incur cleanup liability for the contaminated site.⁷ The Act does not limit the right of a third party, other than the state, to pursue an action for damages to property or person; however, an action may not require rehabilitation in excess of what is outlined in the approved BSRA or required by the DEP or the local pollution control program.⁸

The Act provides lenders the same liability protections as program participants as long as the lender has not caused or contributed to the contamination of a brownfield site. The lender liability protections are provided to encourage financing of real-property transactions involving brownfield sites.⁹

¹ Robert A. Jones and William F. Welsh, *Michigan Brownfield Redevelopment Innovation: Two Decades of Success*, (Sept. 2010), available at <http://www.miseagrant.umich.edu/downloads/focus/brownfields/10-201-EMU-Final-Report.pdf> (last visited Feb. 15, 2013).

² The Florida Brownfields Association, *Brownfields 101*, available at <http://floridabrownfields.org/associations/11916/files/Brownfields101.pdf> (last visited Feb. 15, 2013).

³ Chapter 97-277, Laws of Fla.

⁴ Department of Environmental Protection, *Florida Brownfields Redevelopment Act-1998 Annual Report*, available at http://www.dep.state.fl.us/waste/quick_topics/publications/wc/brownfields/leginfo/1998/98final.pdf (last visited Feb. 15, 2013).

⁵ ASTM International defines “risk based corrective action principles” as consistent decision-making processes for assessment and response to chemical releases. See <http://www.astm.org/Standards/E2081.htm> (last visited Feb. 22, 2013).

⁶ See Rule 62-785, F.A.C.

⁷ *Id.* “Brownfield site rehabilitation agreement” (BSRA) means an agreement entered into between the person responsible for brownfield site rehabilitation and the Department or a delegated local program. The BSRA shall at a minimum establish the time frames, schedules, and milestones for completion of site rehabilitation tasks and submission of technical reports, and other commitments or provisions pursuant to s. 376.80(5), F.S., and Rule 62-785, F.A.C.

⁸ See s. 376.82, F.S.

⁹ *Id.*

The Act also created the Brownfield Redevelopment Bonus Refund to provide a refund to qualified businesses for new jobs that are created in a brownfield area.¹⁰ The Act identifies specific procedures and criteria for the designation of a brownfield area by local governments,¹¹ counties,¹² and municipalities.¹³

Economic Incentives

In 1998, the Legislature passed SBs 1202 and 244 providing economic and financial incentives to promote the redevelopment of brownfield areas. SB 1202 created the Brownfield Area Loan Guarantee Program, which authorized up to five years of state loan guarantees for redevelopment and applied to 10 percent of the primary lender loan.¹⁴ SB 244 authorized a voluntary clean-up tax credit (VCTC) of up to 35 percent of the costs of voluntary clean-up activity of brownfield areas with a maximum allowable amount of \$250,000 per site per year.¹⁵

In 2005, the Legislature passed SB 1338, the Brownfield Property Ownership Clearance Assistance and Revolving Loans Trust Fund, facilitating the redevelopment of properties that may be more difficult to redevelop due to various liens on the property or complications from bankruptcy. The trust fund was to help clear prior liens on the property through the negotiation process. The loans would then be repaid through the resale of the brownfield property and other activities that may have enhanced the property's value. This trust fund was never capitalized or used for its intended purpose and was later repealed.¹⁶

In 2006, the Legislature passed HB 7131, which substantially increased the economic and financial incentives for the redevelopment of brownfield areas and repealed the Brownfield Property Ownership Clearance Assistance and Revolving Loans Trust Fund. The VCTC increased from 35 percent to 50 percent, which may be applied against intangible property tax and corporate income tax for the remediation of brownfield area with a maximum allowable amount of \$500,000 per year per site. The Brownfield Area Loan Guarantee Program increased from 10 percent to 25 percent of the loan and the loan guaranty was applied to 75 percent of the lender loan if the brownfield area redevelopment is for "affordable" housing.¹⁷ The percentage of tax credit that may be received during the final year of clean-up was increased from 10 percent to 25 percent and the amount was increased from \$50,000 to \$500,000. The total amount of tax credits that may be granted for brownfield clean-up was increased from \$2 million annually to \$5 million annually. The law also provides incentives for cleaning unlicensed or historic solid waste dumpsites and requires Enterprise Florida, Inc., to market brownfields for redevelopment and job growth.¹⁸

¹⁰ See s. 288.107, F.S.

¹¹ See s. 376.80, F.S.

¹² See s. 125.66, F.S.

¹³ See s. 166.041, F.S.

¹⁴ See s. 376.86 F.S.

¹⁵ See s. 220.1845, F.S.

¹⁶ See ch. 2005-3, Laws of Fla.

¹⁷ "Affordable" housing, as defined in s. 420.0004, F.S., means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of median adjusted gross annual income for the households as indicated in ss. 420.0004(9), (11), (12), or (17), F.S.

¹⁸ See ss. 196.012, 196.1995, 199.1055, 220.1845, 288.9015, 376.30781, 376.80, and 376.86, F.S. Sections 376.87 and 376.875, F.S., were repealed.

In 2008, the Legislature passed HB 527 providing additional tax credits for the developers of brownfield areas. The law allows a tax credit for the costs incurred to remove solid waste from a brownfield site. The tax credit applicant may claim 50 percent of the cost of solid waste removal, not to exceed \$500,000. An additional 25 percent of the total site rehabilitation costs, not to exceed \$500,000, may be claimed if a health care facility is constructed on the brownfield site.¹⁹

In 2010, the Legislature passed SB 550 requiring the DEP to submit an annual report to the President of the Senate and Speaker of the House of Representatives by August 1 of each year. The annual report must include the number, locations and sizes of the brownfield sites that have been remediated or are currently being rehabilitated under the provisions of the Act.²⁰

Brownfield Designation Procedures

Currently, a local government that has jurisdiction over a proposed brownfield area is required by the Act to notify the DEP of the decision to designate the brownfield area for rehabilitation. The notification must include a resolution that contains a map of the proposed area and the parcels to be included in the brownfield designation. Municipalities that propose to designate a brownfield area must do so according to the resolution adoption procedures outlined in s. 166.041, F.S., and notice the public hearing according to s. 166.041(3)(c)2., F.S. Counties that propose to designate a brownfield area must do so according to the resolution adoption procedures outlined in s. 125.66, F.S., and notice the public hearing according to s. 125.66(4)(b)2., F.S.²¹

The Act requires a local government that proposes to designate a brownfield area that is outside of a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project, to notify the DEP of the proposed designation. The notification must include a resolution that contains a map of the proposed area and the parcels to be included in the brownfield designation. The local government is also required to consider if the area warrants development, confirm the area is not too large, determine if the area has the potential for the private sector to participate in the rehabilitation, and whether the area has sites that can be used for recreation, cultural or historical preservation.²²

The Act allows a local government to designate a brownfield area if the person who owns or controls a potential brownfield area is requesting the designation and has agreed to rehabilitate and redevelop the area. The redevelopment must provide an economic benefit to the area and create at least five permanent new jobs. The redevelopment of the proposed area must be consistent with the local comprehensive plan and be permissible. Notice of the proposed designation must be provided to the residents of the area and published in a newspaper of local circulation. The person requesting the designation must also provide reasonable assurance that he or she has sufficient financial resources to complete the rehabilitation and redevelopment of the

¹⁹ See s. 376.30781, F.S.

²⁰ See s. 376.85, F.S.

²¹ Chapter 97-277, Laws of Fla.

²² *Id.*

brownfield area and enter into a site rehabilitation agreement with the department or local pollution control program.²³

The Act also requires that if a property owner within the proposed designation area requests in writing to the local government to have their property removed from the designation, the request must be granted.²⁴

As of January 23, 2013, local governments have adopted 330 resolutions to officially designate brownfield areas and 183 BSRAs have been executed. A total of 56 Site Rehabilitation Completion Orders or “No Further Action” orders have been issued since the inception of the program.²⁵

III. Effect of Proposed Changes:

Section 1 amends s. 376.78, F.S., to emphasize that the redevelopment of a brownfield area within a community redevelopment area, empowerment zone, closed military bases, or designated brownfield pilot project area is particularly beneficial.

Section 2 amends s. 376.80, F.S., to clarify and revise the procedures for the designation of a brownfield area for the purpose of rehabilitation under the Act.

The bill specifies the following procedures for the designation of a brownfield area:

- A local government with jurisdiction over the brownfield area must adopt a resolution to designate the proposed area.
- The local government must notify the DEP, and, if applicable, the local pollution control program within 30 days of the adoption of the resolution.
- The resolution must include a detailed map of the parcels that are to be designated or a legal description of the parcels along with a less detailed map.
- The resolution must be adopted according to the resolution adoption procedures and requirements of the local government at the time of the proposal.
- Property owners within the proposed brownfield area who make written requests to have their properties removed from the designation before the adoption of the resolution must be granted the request.

The bill specifies that if the designation is proposed by a local government that has jurisdiction over the area and the area is located outside an existing community redevelopment area, an enterprise zone, an empowerment zone, a closed military base, or a designated brownfield pilot project, then the following public hearing and notification procedures are required:

- At least one of the required public hearings must be conducted as close to the proposed area as possible to provide an opportunity for public input on the size of the area, the objectives

²³ *Id.*

²⁴ *Id.*

²⁵ Department of Environmental Protection, *Senate Bill 554 Agency Analysis* (Feb. 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

for rehabilitation, job opportunities and economic developments, and residents' considerations.

- Notice of the public hearing must be made in a newspaper of general circulation, in ethnic newspapers or community bulletins, posted in the affected area, and announced at a scheduled meeting of the local governing body held prior to the public hearing.
- At the public hearing the local government must consider the following:
 - Whether the proposed brownfield area warrants development;
 - Whether the proposed area covers an overly large area;
 - Whether the proposed area has the potential for the private sector to participate in rehabilitation; and
 - Whether the proposed area contains sites that may be used for recreational open space, cultural or historical preservation purposes.

The bill specifies that if the designation is proposed by a local government that has jurisdiction over the area and the area is located within an existing community redevelopment area, an enterprise zone, an empowerment zone, a closed military base, or a designated brownfield pilot project, then the public hearing considerations outlined above are not required; however, the local government must be in compliance with the notification and resolution adoption procedures outlined in paragraph two of this section of the analysis.

The bill specifies that if the designation is proposed by individuals, corporations, partnerships, limited liability corporations, community-based organizations, not-for-profit corporations, or other non-governmental entities the following public hearing and notification procedures are required:

- A public hearing must be conducted as close to the proposed area as possible to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments, and residents' considerations.
- Notice of the public hearing must be published in a newspaper of general circulation, published in an ethnic newspaper or community bulletin, posted in the affected area and announced at a scheduled meeting of the local governing body held prior to the public hearing.
- The individual proposing the designation must also meet the following criteria:
 - The person owns or controls the proposed area;
 - The rehabilitation and redevelopment of the proposed area will be economically beneficial and include the creation of at least five new permanent jobs;
 - The redevelopment is consistent with the local comprehensive plan and is permissible;
 - The individual has provided reasonable assurance that he or she has sufficient financial resources to complete the rehabilitation and redevelopment of the brownfield area; and
 - The individual must enter into a site rehabilitation agreement with the DEP or local pollution control program, and the individual is entitled to negotiate the terms of the agreement.

The bill specifies that a local government that designates a brownfield area according to these procedures is not required to use the term “brownfield area” within the name of the brownfield area proposed for designation by the local government.

The bill also adds sub-headings to the existing statutory language to further clarify what notification and designations to use, by whom, and when.

Section 3 amends s. 376.82, F.S., to revise the liability protection for a person who executes and implements a successful BSRA to include protection against liability for claims of any person for property damage, including:

- Diminished value of real property or improvements;
- Lost or delayed rent, sale, or use of real property or improvements; and
- The stigma to real property or improvements caused by the contamination that was addressed in the BSRA.

The liability protection applies to causes of action accruing on or after July 1, 2013.

Section 4 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill eliminates the right of a third party to pursue an action for property damages. The elimination of this legal remedy may harm third parties whose properties are damaged. However, individuals, corporations, community-based organizations, and not-for-profit corporations proposing to designate brownfield areas may benefit from this limitation of liability provision.

C. Government Sector Impact:

Local governments may incur costs associated with damages to public property that have been affected by contamination from a brownfield site due to the limitation of liability provisions in 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/CS by Community Affairs on April 2, 2012:

The committee substitute amended the notice required by a local government designating brownfields to include the local pollution control program, if applicable.

CS by Environmental Preservation and Conservation on March 14, 2013:

The committee substitute made the following changes to the bill:

- Deletes the tax exemption for the building materials used for the substantial rehabilitation of a “housing project” in a designated brownfield area.
- Resolves the technical deficiencies that were present in the bill by eliminating the reference to the notice requirements in ss. 166.041 and 125.041, F.S.
- Rearranges the procedures in s. 378.80, F.S., to clarify the resolution adoption procedures, public hearing requirements and notification requirements that apply to local governments and individuals who propose to designate a brownfield area.
- Clarifies that a local government that designates a brownfield area according to the procedures in the bill is not required to use to the term “brownfield” within the name of the area for the designation.

B. Amendments:

None.

By the Committees on Community Affairs; and Environmental
Preservation and Conservation; and Senator Altman

578-03484-13

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A bill to be entitled

An act relating to brownfields; amending s. 376.78,
F.S.; revising legislative intent with regard to
community revitalization in certain areas; amending s.
376.80, F.S.; revising procedures for designation of
brownfield areas by local governments; providing
procedures for adoption of a resolution; providing
requirements for notice and public hearings;
authorizing local governments to use a term other than
"brownfield area" when naming such areas; amending s.
376.82, F.S.; providing relief of liability for
property damages for entities that execute and
implement certain brownfield site rehabilitation
agreements; providing for applicability; providing an
effective date.

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

Section 1. Subsection (8) of section 376.78, Florida
Statutes, is amended to read:

376.78 Legislative intent.—The Legislature finds and
declares the following:

(8) The existence of brownfields within a community may
contribute to, or may be a symptom of, overall community
decline, including issues of human disease and illness, crime,
educational and employment opportunities, and infrastructure
decay. The environment is an important element of quality of
life in any community, along with economic opportunity,
educational achievement, access to health care, housing quality

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and availability, provision of governmental services, and other
socioeconomic factors. Brownfields redevelopment, properly done,
can be a significant element in community revitalization,
especially within community redevelopment areas, enterprise
zones, empowerment zones, closed military bases, or designated
brownfield pilot project areas.

Section 2. Subsections (1) and (2) of section 376.80,
Florida Statutes, are amended, and subsection (12) is added to
that section, to read:

376.80 Brownfield program administration process.—

(1) The following general procedures apply to brownfield
designations:

(a) The local government with jurisdiction over a proposed
brownfield area shall designate such area pursuant to this
section.

(b) For a brownfield area designation proposed by:

1. The jurisdictional local government, the designation
criteria under paragraph (2) (a) apply, except if the local
government proposes to designate as a brownfield area a
specified redevelopment area as provided in paragraph (2) (b).

2. Any person, other than a governmental entity, including,
but not limited to, individuals, corporations, partnerships,
limited liability companies, community-based organizations, or
not-for-profit corporations, the designation criteria under
paragraph (2) (c) apply.

(c) Except as otherwise provided, the following provisions
apply to all proposed brownfield area designations:

1. Notification to department following adoption.—A local
government with jurisdiction over the brownfield area must

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59 notify the department, and, if applicable, the local pollution
 60 control program under s. 403.182, of its decision to designate a
 61 brownfield area for rehabilitation for the purposes of ss.
 62 376.77-376.86. The notification must include a resolution
 63 adopted, by the local government body. The local government
 64 shall notify the department, and, if applicable, the local
 65 pollution control program under s. 403.182, of the designation
 66 within 30 days after adoption of the resolution.

67 2. Resolution adoption.—The brownfield area designation
 68 must be carried out by a resolution adopted by the
 69 jurisdictional local government, to which includes is attached a
 70 map adequate to clearly delineate exactly which parcels are to
 71 be included in the brownfield area or alternatively a less-
 72 detailed map accompanied by a detailed legal description of the
 73 brownfield area. The resolution shall be adopted pursuant to the
 74 procedures and requirements of the local government in effect at
 75 the time of the proposed designation, except as otherwise
 76 provided in this section.

77 3. Right to be removed from proposed brownfield area.—If a
 78 property owner within the area proposed for designation by the
 79 local government requests in writing to have his or her property
 80 removed from the proposed designation, the local government
 81 shall grant the request. For municipalities, the governing body
 82 shall adopt the resolution in accordance with the procedures
 83 outlined in s. 166.041, except that the notice for the public
 84 hearings on the proposed resolution must be in the form
 85 established in s. 166.041(3)(c)2. For counties, the governing
 86 body shall adopt the resolution in accordance with the
 87 procedures outlined in s. 125.66, except that the notice for the

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88 ~~public hearings on the proposed resolution shall be in the form~~
 89 ~~established in s. 125.66(4)(b)2.~~

90 4. Notice and public hearing requirements.—Compliance with
 91 the following provisions is required before designation of a
 92 proposed brownfield area under paragraph (2) (a) or paragraph
 93 (2) (c):

94 a. At least one of the required public hearings shall be
 95 conducted as closely as is reasonably practicable to the area to
 96 be designated to provide an opportunity for public input on the
 97 size of the area, the objectives for rehabilitation, job
 98 opportunities and economic developments anticipated,
 99 neighborhood residents' considerations, and other relevant local
 100 concerns.

101 b. Notice of the public hearing must be made in a newspaper
 102 of general circulation in the area, and the notice must be at
 103 least 16 square inches in size, must be in ethnic newspapers or
 104 local community bulletins, must be posted in the affected area,
 105 and must be announced at a scheduled meeting of the local
 106 governing body before the actual public hearing.

107 (2) (a) Local government-proposed brownfield area
 108 designation outside specified redevelopment areas.—If a local
 109 government proposes to designate a brownfield area that is
 110 outside a community redevelopment area areas, enterprise zone
 111 zones, empowerment zone zones, closed military base bases, or
 112 designated brownfield pilot project area areas, the local
 113 government shall provide notice, adopt the resolution, and
 114 conduct the public hearings pursuant to paragraph in accordance
 115 with the requirements of subsection (1)(c). At a public hearing
 116 to designate the proposed brownfield area, except at least one

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117 ~~of the required public hearings shall be conducted as close as~~
 118 ~~reasonably practicable to the area to be designated to provide~~
 119 ~~an opportunity for public input on the size of the area, the~~
 120 ~~objectives for rehabilitation, job opportunities and economic~~
 121 ~~developments anticipated, neighborhood residents'~~
 122 ~~considerations, and other relevant local concerns. Notice of the~~
 123 ~~public hearing must be made in a newspaper of general~~
 124 ~~circulation in the area and the notice must be at least 16~~
 125 ~~square inches in size, must be in ethnic newspapers or local~~
 126 ~~community bulletins, must be posted in the affected area, and~~
 127 ~~must be announced at a scheduled meeting of the local governing~~
 128 ~~body before the actual public hearing. In determining the areas~~
 129 ~~to be designated, the local government must consider:~~

- 130 1. Whether the brownfield area warrants economic
- 131 development and has a reasonable potential for such activities;
- 132 2. Whether the proposed area to be designated represents a
- 133 reasonably focused approach and is not overly large in
- 134 geographic coverage;
- 135 3. Whether the area has potential to interest the private
- 136 sector in participating in rehabilitation; and
- 137 4. Whether the area contains sites or parts of sites
- 138 suitable for limited recreational open space, cultural, or
- 139 historical preservation purposes.

140 (b) Local government-proposed brownfield area designation
 141 within specified redevelopment areas.—Paragraph (a) does not
 142 apply to a proposed brownfield area if the local government
 143 proposes to designate the brownfield area inside a community
 144 redevelopment area, enterprise zone, empowerment zone, closed
 145 military base, or designated brownfield pilot project area and

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146 the local government complies with paragraph (1) (c).

147 (c) (b) Brownfield area designation proposed by persons
 148 other than a governmental entity.—For designation of a
 149 brownfield area that is proposed by a person other than the
 150 local government, the local government with jurisdiction over
 151 the proposed brownfield area shall adopt a resolution to
 152 designate the a brownfield area pursuant to subsection (1) if,
 153 at the public hearing to adopt the resolution, the person
 154 establishes all of the following under the provisions of this
 155 act provided that:

- 156 1. A person who owns or controls a potential brownfield
- 157 site is requesting the designation and has agreed to
- 158 rehabilitate and redevelop the brownfield site.†
- 159 2. The rehabilitation and redevelopment of the proposed
- 160 brownfield site will result in economic productivity of the
- 161 area, along with the creation of at least 5 new permanent jobs
- 162 at the brownfield site that are full-time equivalent positions
- 163 not associated with the implementation of the brownfield site
- 164 rehabilitation agreement and that are not associated with
- 165 redevelopment project demolition or construction activities
- 166 pursuant to the redevelopment of the proposed brownfield site or
- 167 area. However, the job creation requirement ~~does shall~~ not apply
- 168 to the rehabilitation and redevelopment of a brownfield site
- 169 that will provide affordable housing as defined in s. 420.0004
- 170 or the creation of recreational areas, conservation areas, or
- 171 parks.†
- 172 3. The redevelopment of the proposed brownfield site is
- 173 consistent with the local comprehensive plan and is a
- 174 permissible use under the applicable local land development

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175 regulations_↗

176 4. Notice of the proposed rehabilitation of the brownfield
177 area has been provided to neighbors and nearby residents of the
178 proposed area to be designated pursuant to paragraph (1)(c), and
179 the person proposing the area for designation has afforded to
180 those receiving notice the opportunity for comments and
181 suggestions about rehabilitation. Notice pursuant to this
182 subparagraph must be made in a newspaper of general circulation
183 in the area, at least 16 square inches in size, and the notice
184 must be posted in the affected area. ~~↗ and~~

185 5. The person proposing the area for designation has
186 provided reasonable assurance that he or she has sufficient
187 financial resources to implement and complete the rehabilitation
188 agreement and redevelopment of the brownfield site.

189 (d) ~~(e)~~ Negotiation of brownfield site rehabilitation
190 agreement.—The designation of a brownfield area and the
191 identification of a person responsible for brownfield site
192 rehabilitation simply entitles the identified person to
193 negotiate a brownfield site rehabilitation agreement with the
194 department or approved local pollution control program.

195 (12) A local government that designates a brownfield area
196 pursuant to this section is not required to use the term
197 “brownfield area” within the name of the brownfield area
198 proposed for designation by the local government.

199 Section 3. Paragraphs (a) and (b) of subsection (2) of
200 section 376.82, Florida Statutes, are amended to read:

201 376.82 Eligibility criteria and liability protection.—

202 (2) LIABILITY PROTECTION.—

203 (a) Any person, including his or her successors and

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204 assigns, who executes and implements to successful completion a
205 brownfield site rehabilitation agreement, shall be relieved of:

206 1. Further liability for remediation of the contaminated
207 site or sites to the state and to third parties. ~~and of~~

208 2. Liability in contribution to any other party who has or
209 may incur cleanup liability for the contaminated site or sites.

210 3. Liability for claims of any person for property damages,
211 including, but not limited to, diminished value of real property
212 or improvements; lost or delayed rent, sale, or use of real
213 property or improvements; or stigma to real property or
214 improvements caused by contamination addressed by a brownfield
215 site rehabilitation agreement. Notwithstanding any other
216 provision of this chapter, this subparagraph applies to causes
217 of action accruing on or after July 1, 2013.

218 (b) This section does not limit ~~shall not be construed as a~~
219 ~~limitation on~~ the right of a third party other than the state to
220 pursue an action for damages to persons for bodily harm ~~property~~
221 ~~or person~~; however, such an action may not compel site
222 rehabilitation in excess of that required in the approved
223 brownfield site rehabilitation agreement or otherwise required
224 by the department or approved local pollution control program.

225 Section 4. This act shall take effect July 1, 2013.

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 Appropriations Subcommittee on Finance and Tax

BILL: SB 856

INTRODUCER: Senator Bullard

SUBJECT: Community Redevelopment

DATE: April 11, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Favorable
2.	Babin	Diez-Arguelles	AFT	Favorable
3.			AP	
4.				
5.				
6.				

I. Summary:

SB 856 expands the definition of “blighted area” for purposes of the Community Redevelopment Act to include land that was previously used as a military facility and is located adjacent to a county-owned zoological park.

This bill does not impact state or local revenue.

This bill substantially amends section 163.340 of the Florida Statutes.

II. Present Situation:

Community Redevelopment Act

The Community Redevelopment Act of 1969,¹ authorizes a county or municipality to create community redevelopment areas (CRAs) as a means of redeveloping slums and blighted areas. Community Redevelopment Areas are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF).² Taxing authorities must annually appropriate an amount representing the calculated increment revenue to the redevelopment trust fund. This revenue is used to back bonds issued to finance redevelopment projects. School district revenues are not subject to the tax increment mechanism.

¹ Chapter 163, F.S., part III.

² Through tax increment financing, a baseline tax amount is chosen, and then in future years, any taxes generated above that baseline amount are transferred into the trust fund.

Counties and municipalities are prohibited from exercising the community redevelopment authority provided by the Community Redevelopment Act until they adopt an ordinance that declares an area to be a slum or a blighted area.³

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

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

- (a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- (b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions;
- (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (d) Unsanitary or unsafe conditions;
- (e) Deterioration of site or other improvements;
- (f) Inadequate and outdated building density patterns;
- (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- (h) Tax or special assessment delinquency exceeding the fair value of the land;
- (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
- (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
- (l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
- (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
- (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

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

Disposal of Military Real Property

The U.S. Department of Defense (DOD) provides for the disposal of real property “for which there is no foreseeable military requirement, either in peacetime or for mobilization.”⁴ Disposal

³ Sections 163.355(1) and 163.360(1), F.S.

of such property is subject to a number of statutory and department regulations which consider factors such as the:

- Presence of any hazardous material contamination;
- Valuation of property assets;
- McKinney-Vento Homeless Assistance Act;
- National Historic Preservation Act;
- Real property mineral rights; and
- Presence of floodplains and wetlands.⁵

Once the DOD has classified land as excess to their needs, the land is transferred to the Office of Real Property Disposal within the federal General Services Administration (GSA). With general federal surplus lands, GSA has a clear process wherein they first offer the land to other federal agencies. If no other federal agency identifies a need, the land is then labeled “surplus” (rather than “excess”) and available for transfer to state and local governments and certain nonprofit agencies. Uses that benefit the homeless must be given priority, and then the land may be transferred at a discount of up to 100 percent if it is used for other specific types of public uses, which include education, corrections, emergency management, airports, self-help housing, parks and recreation, law enforcement, wildlife conservation, public health, historic monuments, port facilities, and highways. If the public use is not among those public benefits, the GSA may negotiate a sale at appraised fair market value to a state or local government for another public purpose.⁶

The Base Realignment and Closure Act of 1990 (BRAC) provides for an exception to the normal process by which the DOD disposes of military real property.

The BRAC process makes recommendations for realigning and closing military facilities. The BRAC process was undertaken in 1988, 1991, 1993, 1995, and 2005. Surplus disposal authority is delegated to the DOD when BRAC properties are involved. The Secretary of Defense is authorized to work with Local Redevelopment Authorities (LRAs) in determining what to do with surplus BRAC properties, including the possibility of transferring BRAC property to an LRA at reduced or no cost for the purpose of economic development. The Secretary of Defense is responsible for determining what constitutes an LRA and what cost, if any, will be associated with the transfer.⁷

There are four Florida cities, which have been affected by BRAC closures, all resulting from the 1993 BRAC process. Homestead Air Force Base was realigned in 1992; Pensacola’s Naval Aviation Depot and Fleet and Industrial Supply Center were closed in 1996; Jacksonville’s Cecil

⁴ Department of Defense Instruction 4165.72.

⁵ *Id.*

⁶ General Services Administration Public Buildings Service, *Acquiring Federal Real Estate for Public Uses* (Sep. 2007), <https://extportal.pbs.gsa.gov/RedinetDocs/cm/rcdocs/Acquiring%20Federal%20Real%20Estate%20for%20Public%20Uses1222988606483.pdf> (last visited April 4, 2013).

⁷ Congressional Research Service, *Base Realignment and Closure (BRAC): Transfer and Disposal of Military Property* (Mar. 31, 2009), <http://www.fas.org/sgp/crs/natsec/R40476.pdf> (last visited April 4, 2013).

Field was closed in 1999; and Orlando's Naval Training Center and Naval Hospital were closed in 1999.⁸

III. Effect of Proposed Changes:

Section 1 expands the current definition of the term "blighted area" provided for in s. 163.340(8), F.S., to include land that was previously used as a military facility and is located adjacent to a county-owned zoological park.

Section 2 provides an effective date of July 1, 2013.

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:

Community redevelopment agencies will be able to develop a community redevelopment plan utilizing the expanded definition of "blighted area" to include land that was previously used as a military facility and is located adjacent to a county-owned zoological park. As a result, these areas may receive TIF revenues under the Community Redevelopment Act, and property values in the area may increase as a result of any improvements using TIF. Redevelopment of these areas can contribute to increased economic interest in a region and an overall improved economic condition.

Counties and municipalities are required by s. 163.345, F.S., to prioritize private enterprise in the rehabilitation and redevelopment of blighted areas. The increase in ad valorem taxation could be used to finance private development projects within this new category of "blighted area." Overall property values in the surrounding area may also increase as a result, affecting current homeowners' resale values and ad valorem taxation.

⁸ United States Department of Defense, *Major Base Closure Summary*, <http://www.defense.gov/faq/pis/17.html> (last visited April 4, 2013).

C. Government Sector Impact:

A municipality or county would be able to develop a community redevelopment plan utilizing the expanded definition of “blighted area” to include land that was previously used as a military facility and is located adjacent to a county-owned zoological park. This could result in a portion of the ad valorem taxes from those lands being used for TIF. County and municipal governments would then receive the benefit of the ad valorem tax revenue on the increase in property value within the CRA, but could see an increase in other aspects of the local economy.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Miami-Dade County has expressed interest in developing the area around Metrozoo as a recreation destination.⁹ The family entertainment center, as considered in 2004, was projected to bring 9,000 permanent jobs to the area.¹⁰ Coast Guard property adjacent to current Metrozoo property could be part of this development, and tax increment financing through a CRA could help finance such improvements.

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.

⁹ Oscar Pedro Musibay, *Plans for Entertainment District Near Miami Metrozoo Progress*, South Florida Business Journal, Sep. 21, 2009, available at <http://www.bizjournals.com/southflorida/stories/2009/09/21/story6.html> (last visited April 4, 2013).

¹⁰ Susan Stabley, *Zoo Entertainment Park Planned*, South Florida Business Journal, Dec. 27, 2004, available at <http://www.bizjournals.com/southflorida/stories/2004/12/27/story1.html> (last visited April 4, 2013).



342076

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2013	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Abruzzo)
recommended the following:

Senate Amendment (with title amendment)

Between lines 64 and 65
insert:

Section 2. Subsection (5) is added to section 163.356,
Florida Statutes, to read:

163.356 Creation of community redevelopment agency.—

(5) Each community redevelopment agency created pursuant to
this part is an instrumentality of the county or municipal
government that created it and is the recipient of significant
ad valorem property tax revenues that would otherwise go
directly to the county or municipal government and, therefore,



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13 the Legislature recognizes a critical need for the oversight of
14 these revenues. To that end, the jurisdiction of an inspector
15 general or internal auditor within a county or municipal
16 government extends to any community redevelopment agency created
17 by that county or municipal government.

18
19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 Delete line 7.
22 owned zoological park; amending s. 163.356, F.S.;
23 providing that the Legislature recognizes a need for
24 oversight of community redevelopment agencies;
25 providing that an inspector general or internal
26 auditor has certain jurisdiction over such community
27 redevelopment agencies; providing an effective date.

By Senator Bullard

39-00838A-13

2013856__

A bill to be entitled

An act relating to community redevelopment; amending s. 163.340, F.S.; revising the definition of the term "blighted area," as applicable to the Community Redevelopment Act of 1969, to include land previously used as a military facility and adjacent to a county-owned zoological park; providing an effective date.

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

Section 1. Subsection (8) of section 163.340, Florida Statutes, is amended to read:

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

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

(a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;

(b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions;

(c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

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- (d) Unsanitary or unsafe conditions;
- (e) Deterioration of site or other improvements;
- (f) Inadequate and outdated building density patterns;
- (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- (h) Tax or special assessment delinquency exceeding the fair value of the land;
- (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
- (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
- (l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
- (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
- (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.
- However, the term "blighted area" also means any area in which at least one of the factors identified in paragraphs (a) through (n) is ~~are~~ present and all taxing authorities subject to s. 163.387(2)(a) agree, ~~either~~ by interlocal agreement, by ~~or~~ agreements with the agency, or by resolution, that the area is

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59 blighted, or the area was previously used as a military facility
60 and is adjacent to a county-owned zoological park. Such
61 agreement or resolution shall ~~only~~ determine only that the area
62 is blighted. For purposes of qualifying for the tax credits
63 authorized in chapter 220, "blighted area" means an area as
64 defined in this subsection.

65 Section 2. This act shall take effect July 1, 2013.

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 Appropriations Subcommittee on Finance and Tax

BILL: CS/CS/SB 960

INTRODUCER: Appropriations Subcommittee on Finance and Tax; Commerce and Tourism Committee and Senator Bean

SUBJECT: Tax on Sales, Use, & Other Transactions

DATE: April 11, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Malcolm	Hrdlicka	CM	Fav/CS
2.	Cote	Diez-Arguelles	AFT	Fav/CS
3.			AP	
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:

CS/CS/SB 960 provides a sales tax exemption for dyed diesel fuel used by vessels designed, constructed, and used exclusively for the taking of shrimp from salt and fresh water.

The Revenue Estimating Conference determined that this bill will decrease revenue deposited in the State Transportation Trust Fund by \$0.3 million in Fiscal Year 13-14, with a negative \$0.3 million recurring impact to the trust fund.

This bill amends ss. 212.05 and 212.08, F.S.

II. Present Situation:

Currently, under Chapters 206 and 212, F.S., a number of taxes are levied on diesel fuel in Florida.¹ Dyed diesel fuel, however, is exempt from the taxes in ch. 206, F.S.² Dyed diesel can

¹ See ss. 206.87, 212.05(1)(k), 212.0501, F.S. One purpose of these taxes is to provide revenue to defray the cost of constructing and maintaining public highways in Florida. See s. 206.85, F.S.

² Section 206.874(1) and (3), F.S.

only be purchased and used for specific purposes that do not involve commercial use on public highways, such as, on a farm for farm processing, in school buses, and in commercial fishing vessels.³ Because it is exempt from the taxes in ch. 206, F.S., dyed diesel is less expensive than non-dyed diesel fuel. Consequently, dyed diesel allows the Department of Revenue (DOR) to ensure vehicles and equipment are using the dyed diesel fuel only for exempt purposes.

Although dyed diesel fuel is exempt from the taxes in ch. 206, F.S., it is generally not exempt from the sales tax in ch. 212, F.S.⁴ Under s. 212.05, F.S., a 6 percent sales tax is levied on the sale price of each gallon of diesel fuel not taxed under ch. 206, F.S., used in a vessel.⁵ Because dyed diesel fuel used in commercial fishing vessels is exempt from taxes under ch. 206, F.S., it is subject to the 6 percent sales tax in s. 212.05, F.S.

Section 212.08, F.S., provides a partial exemption from the 6 percent sales tax for dyed diesel fuel used by vessels to transport persons or property in interstate or foreign commerce, including commercial fishing vessels.⁶ This partial exemption is calculated based on the ratio of intrastate mileage to interstate or foreign mileage traveled by vessels that were used in interstate or foreign commerce and that had at least some Florida mileage during the previous fiscal year.⁷ This ratio, known as the mileage apportionment factor, is generally determined at the close of the carrier's fiscal year.⁸

Dyed diesel fuel used exclusively in intrastate commerce does not qualify for the prorated exemption.⁹ Consequently, dyed diesel fuel used for inshore commercial fishing or fishing that occurs within the territorial waters of Florida is not exempt from the 6 percent sales tax.¹⁰

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 212.05 and 212.08, F.S., to provide a sales tax exemption for dyed diesel fuel that is placed in the storage tanks of vessels designed, constructed, and used exclusively for the taking of shrimp from salt and fresh waters for sale. The exemption only applies when the purchaser of the fuel provides the seller with a written statement, signed by the purchaser, verifying that the fuel is to be used by the vessel exclusively for the taking of shrimp

³ Section 206.874(3), F.S. Similarly, motor fuel used for aquacultural and commercial fishing purposes are exempt from the local option tax, state comprehensive enhanced transportation system tax, municipal fuel tax, and fuel sales taxes paid under s. 206.41, F.S. Section 206.41(4)(c), F.S.

⁴ Section 212.0501(3), F.S., exempts diesel fuel used “on account of residential purposes; or in any tractor, vehicle, or other equipment used exclusively on a farm or for processing farm products on the farm, no part of which diesel fuel is used in any licensed motor vehicle on the public highways of this state; or the purchase or storage of diesel fuel held for resale.”

⁵ Section 212.05(1)(k), F.S.

⁶ See Rule 12A-1.0641, F.A.C. “Commercial fishing vessels” are defined by DOR as “vessels designed, constructed, and used exclusively for the taking of fish, crayfish, oysters, shrimp, and sponges from the salt and fresh waters for sale. Vessels used for sports or pleasure fishing, such as pleasure fishing boats, charter boats, or party boats, are not commercial fishing vessels.”

⁷ Section 212.08(4)(a)2., F.S.; Rule 12A-1.0641, F.A.C.

⁸ *Supra* note 7. The calculation for the first year's ratio is based on an estimated ratio of anticipated miles in the state to the anticipated total miles for that year, and either an additional tax will be paid or a refund may be applied for based on the actual ratio of miles in the state to total miles for the year. Section 212.08(4)(a)2., F.S.

⁹ *Supra* note 7.

¹⁰ See Rule 12A-1.0641, F.A.C.

from salt and fresh waters for sale. Any fuel not used exclusively for this purpose is subject to the 6 percent sales tax levied under s. 212.05(1)(k), F.S.

Section 3 provides that the bill takes effect July 1, 2013.

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 determined that this bill will decrease revenue deposited in the State Transportation Trust Fund by \$0.3 million in Fiscal Year 13-14, with a negative \$0.3 million recurring impact to the trust fund.

B. Private Sector Impact:

Commercial shrimpers who operate in state waters may benefit from the reduced tax assessment on dyed diesel fuel used to operate their vessels.

C. Government Sector Impact:

According to DOR, the bill will have an insignificant operational impact on the agency.¹¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹¹ Department of Revenue, *Agency Bill Analysis: CS/HB 423* (March 6, 2013) (on file with the Senate Commerce and Tourism Committee).

VIII. Additional Information:

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

Recommended CS by Appropriations Subcommittee on Finance and Tax on April 11, 2013:

The committee substitute:

- Limits the sales tax exemption on dyed diesel fuel to vessels designed, constructed and used exclusively for the taking of shrimp from salt and fresh waters for sale.
- Provides that the exemption only applies when the purchaser of the fuel provides the seller with a written statement, signed by the purchaser, verifying that the fuel is to be used by the vessel exclusively for the taking of shrimp from salt and fresh waters for sale.

CS by Commerce and Tourism on March 18, 2013:

The committee substitute:

- Extends the sales tax exemption on dyed diesel fuel to vessels used for commercial fishing and aquaculture purposes, which includes commercial shrimping.
- Removes the requirement that the purchaser provide the seller with a written statement, signed by the purchaser, verifying that the fuel is to be used by the vessel exclusively for the taking of shrimp from salt and fresh waters for sale.

- B. **Amendments:**

None.



138984

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
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	.	

Appropriations Subcommittee on Finance and Tax (Simmons)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (k) of subsection (1) of section
212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be
the legislative intent that every person is exercising a taxable
privilege who engages in the business of selling tangible
personal property at retail in this state, including the
business of making mail order sales, or who rents or furnishes
any of the things or services taxable under this chapter, or who



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13 stores for use or consumption in this state any item or article
14 of tangible personal property as defined herein and who leases
15 or rents such property within the state.

16 (1) For the exercise of such privilege, a tax is levied on
17 each taxable transaction or incident, which tax is due and
18 payable as follows:

19 (k) At the rate of 6 percent of the sales price of each
20 gallon of diesel fuel not taxed under chapter 206 purchased for
21 use in a vessel, except dyed diesel fuel that is exempt pursuant
22 to s. 212.08(4)(a)(4).

23 Section 2. Paragraph (a) of subsection (4) of section
24 212.08, Florida Statutes, is amended to read:

25 212.08 Sales, rental, use, consumption, distribution, and
26 storage tax; specified exemptions.—The sale at retail, the
27 rental, the use, the consumption, the distribution, and the
28 storage to be used or consumed in this state of the following
29 are hereby specifically exempt from the tax imposed by this
30 chapter.

31 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.—

32 (a) Also exempt are:

33 1. Water delivered to the purchaser through pipes or
34 conduits or delivered for irrigation purposes. The sale of
35 drinking water in bottles, cans, or other containers, including
36 water that contains minerals or carbonation in its natural state
37 or water to which minerals have been added at a water treatment
38 facility regulated by the Department of Environmental Protection
39 or the Department of Health, is exempt. This exemption does not
40 apply to the sale of drinking water in bottles, cans, or other
41 containers if carbonation or flavorings, except those added at a



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42 water treatment facility, have been added. Water that has been
43 enhanced by the addition of minerals and that does not contain
44 any added carbonation or flavorings is also exempt.

45 2. All fuels used by a public or private utility, including
46 ~~a any~~ municipal corporation or rural electric cooperative
47 association, in the generation of electric power or energy for
48 sale. Fuel other than motor fuel and diesel fuel is taxable as
49 provided in this chapter with the exception of fuel expressly
50 exempt herein. Motor fuels and diesel fuels are taxable as
51 provided in chapter 206, with the exception of those motor fuels
52 and diesel fuels used by railroad locomotives or vessels to
53 transport persons or property in interstate or foreign commerce,
54 which are taxable under this chapter only to the extent provided
55 herein. The basis of the tax shall be the ratio of intrastate
56 mileage to interstate or foreign mileage traveled by the
57 carrier's railroad locomotives or vessels that were used in
58 interstate or foreign commerce and that had at least some
59 ~~Florida~~ mileage in this state during the previous fiscal year of
60 the carrier, such ratio to be determined at the close of the
61 fiscal year of the carrier. However, during the fiscal year in
62 which the carrier begins its initial operations in this state,
63 the carrier's mileage apportionment factor may be determined on
64 the basis of an estimated ratio of anticipated miles in this
65 state to anticipated total miles for that year, and
66 subsequently, additional tax shall be paid on the motor fuel and
67 diesel fuels, or a refund may be applied for, on the basis of
68 the actual ratio of the carrier's railroad locomotives' or
69 vessels' miles in this state to its total miles for that year.
70 This ratio shall be applied each month to the total ~~Florida~~



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71 purchases made in this state of motor and diesel fuels to
72 establish that portion of the total used and consumed in
73 intrastate movement and subject to tax under this chapter. The
74 basis for imposition of any discretionary surtax shall be set
75 forth in s. 212.054. Fuels used exclusively in intrastate
76 commerce do not qualify for the proration of tax.

77 3. The transmission or wheeling of electricity.

78 4. Dyed diesel fuel placed into the storage tank of a
79 vessel designed, constructed, and used exclusively for the
80 taking of shrimp from salt and fresh waters for sale. The
81 exemption does not apply unless the purchaser of the dyed diesel
82 fuel provides the seller with a written statement, signed by the
83 purchaser, verifying that the dyed diesel fuel is to be used by
84 the vessel exclusively for the taking of shrimp from salt and
85 fresh waters for sale. Any dyed diesel fuel that is not used
86 exclusively as verified in such statement is subject to the tax
87 levied under s. 212.05(1)(k), and is due and payable by the
88 purchaser.

89 Section 3. This act shall take effect July 1, 2013.

90

91

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

93 And the title is amended as follows:

94 Delete everything before the enacting clause
95 and insert:

96 A bill to be entitled

97 An act relating to the tax on sales, use, and other
98 transactions; amending ss. 212.05 and 212.08, F.S.;
99 providing a sales tax exemption for dyed diesel fuel



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100
101

used in commercial shrimping; providing an effective
date.

By the Committee on Commerce and Tourism; and Senator Bean

577-02587-13

2013960c1

A bill to be entitled

An act relating to the tax on sales, use, and other transactions; amending s. 212.05, F.S.; providing an exception to sales tax for dyed diesel fuel used in vessels for commercial fishing and aquacultural purposes; amending s. 212.0501, F.S.; providing an exception from sales tax collected by a licensed sales tax dealer for dyed diesel fuel used in vessels for commercial fishing and aquacultural purposes; amending s. 212.08, F.S.; providing a sales tax exemption for dyed diesel fuel used in vessels for commercial fishing and aquacultural purposes; providing an effective date.

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

Section 1. Paragraph (k) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and

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

577-02587-13

2013960c1

payable as follows:

(k) At the rate of 6 percent of the sales price of each gallon of diesel fuel not taxed under chapter 206 purchased for use in a vessel, except dyed diesel fuel that is exempt pursuant to s. 212.08(4)(a)4.

Section 2. Subsection (4) of section 212.0501, Florida Statutes, is amended to read:

212.0501 Tax on diesel fuel for business purposes; purchase, storage, and use.—

(4) Except as otherwise provided in s. 212.05(1)(k), a licensed sales tax dealer may elect to collect such tax pursuant to this chapter on all sales to each person who purchases diesel fuel, except dyed diesel fuel used for commercial fishing and aquacultural purposes listed in s. 206.41(4)(c)3., for consumption, use, or storage by a trade or business. When the licensed sales tax dealer has not elected to collect such tax on all such sales, the purchaser or ultimate consumer shall be liable for the payment of tax directly to the state.

Section 3. Paragraph (a) of subsection (4) 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.

(4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.—

(a) Also exempt are:

1. Water delivered to the purchaser through pipes or

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59 conduits or delivered for irrigation purposes. The sale of
 60 drinking water in bottles, cans, or other containers, including
 61 water that contains minerals or carbonation in its natural state
 62 or water to which minerals have been added at a water treatment
 63 facility regulated by the Department of Environmental Protection
 64 or the Department of Health, is exempt. This exemption does not
 65 apply to the sale of drinking water in bottles, cans, or other
 66 containers if carbonation or flavorings, except those added at a
 67 water treatment facility, have been added. Water that has been
 68 enhanced by the addition of minerals and that does not contain
 69 any added carbonation or flavorings is also exempt.

70 2. All fuels used by a public or private utility, including
 71 any municipal corporation or rural electric cooperative
 72 association, in the generation of electric power or energy for
 73 sale. Fuel other than motor fuel and diesel fuel is taxable as
 74 provided in this chapter with the exception of fuel expressly
 75 exempt herein. Motor fuels and diesel fuels are taxable as
 76 provided in chapter 206, with the exception of those motor fuels
 77 and diesel fuels used by railroad locomotives or vessels to
 78 transport persons or property in interstate or foreign commerce,
 79 which are taxable under this chapter only to the extent provided
 80 herein. The basis of the tax shall be the ratio of intrastate
 81 mileage to interstate or foreign mileage traveled by the
 82 carrier's railroad locomotives or vessels that were used in
 83 interstate or foreign commerce and that had at least some
 84 Florida mileage during the previous fiscal year of the carrier,
 85 such ratio to be determined at the close of the fiscal year of
 86 the carrier. However, during the fiscal year in which the
 87 carrier begins its initial operations in this state, the

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88 carrier's mileage apportionment factor may be determined on the
 89 basis of an estimated ratio of anticipated miles in this state
 90 to anticipated total miles for that year, and subsequently,
 91 additional tax shall be paid on the motor fuel and diesel fuels,
 92 or a refund may be applied for, on the basis of the actual ratio
 93 of the carrier's railroad locomotives' or vessels' miles in this
 94 state to its total miles for that year. This ratio shall be
 95 applied each month to the total Florida purchases made in this
 96 state of motor and diesel fuels to establish that portion of the
 97 total used and consumed in intrastate movement and subject to
 98 tax under this chapter. The basis for imposition of any
 99 discretionary surtax shall be set forth in s. 212.054. Fuels
 100 used exclusively in intrastate commerce do not qualify for the
 101 proration of tax.

102 3. The transmission or wheeling of electricity.

103 4. Dyed diesel fuel placed into the storage tank of a
 104 vessel used exclusively for the commercial fishing and
 105 aquacultural purposes listed in s. 206.41(4)(c)3.

106 Section 4. This act shall take effect July 1, 2013.

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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 Appropriations Subcommittee on Finance and Tax

BILL: SB 1190
 INTRODUCER: Senator Brandes
 SUBJECT: Agricultural Lands
 DATE: April 11, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Halley</u>	<u>AG</u>	Favorable
2.	<u>Hinton</u>	<u>Uchino</u>	<u>EP</u>	Favorable
3.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Favorable
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 1190 amends section 163.3162(3), Florida Statutes, to prohibit all governmental entities, except water management districts and water control districts, from enforcing regulations on certain bona fide farming operations when the activity is already regulated by the state or federal government. In addition, the bill prohibits governmental entities from charging fees on bona fide agricultural activities of bona fide farm operations if the agricultural activities are regulated by the state or federal government.

The Revenue Estimating Conference determined that this bill will reduce local revenue by an insignificant amount.

This bill substantially amends section 163.3162 of the Florida Statutes.

II. Present Situation:

In 2003 the Legislature created s. 163.3162, F.S., which sets forth legislative findings that emphasize the importance of agriculture to the health, safety, and welfare of the people of the state.¹ The intent of the act is to protect reasonable agricultural activities conducted on farm lands from duplicative regulation.² Prior to the passage of this legislation, some counties enacted regulations that duplicated –and in some cases were more restrictive than -- regulations already implemented through best management practices or an existing governmental regulatory program.

¹ Section 163.3162(1), F.S.

² *Id.*

Until 2011, s. 163.3162, F.S., only prohibited new county regulations. In 2011, the Legislature amended s. 163.3162, F.S., to also prohibit enforcement of existing county measures.³

Currently, the prohibition on duplicative regulations applies only to counties. However, some agricultural associations have reported that municipalities are now starting to adopt ordinances and regulations that duplicate existing regulatory requirements.⁴

III. Effect of Proposed Changes:

Section 1 amends s. 163.3162, F.S., to amend the definition of “governmental entity” to exclude water management districts (WMDs).⁵

The bill prohibits any “governmental entity,” from adopting or enforcing a regulation limiting an activity of a bona fide farm operation on land classified as agricultural, if such activity is regulated by:

- The Florida Department of Environmental Protection (DEP);
- The Florida Department of Agriculture and Consumer Services (DACCS);
- A WMD as part of a statewide or regional program; or
- The United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.⁶

The bill also prohibits governmental entities from charging a fee on bona fide agricultural activities that are regulated as described above.

Section 2 provides that this act shall take effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill prohibits governmental entities from charging fees on certain agricultural activities occurring on agricultural lands. This could have a negative, but indeterminate, fiscal impact on local government revenues and, therefore, may implicate the mandate provision of Article VII, section 18 of the Florida Constitution. The March 1, 2013, Revenue Estimating Conference (REC) estimated that the provisions of this bill would result in a negative but insignificant impact on local governments.⁷ Because it is

³ Chapter 2011-7, Laws of Florida. This legislation began as CS/HB 7103(2010), which was vetoed by the Governor in 2010. In 2011, the veto was overridden by the Legislature.

⁴ Conversation between staff with the Committee on Environmental Preservation and Conservation and Cindy Littlejohn, Chair of the Florida Agricultural Association (Apr. 1, 2013).

⁵ Section 163.3162(2)(d), F.S.

⁶ Section 163.3162(3)(a), F.S.

⁷ Office of Economic & Demographic Research, *Revenue Estimating Conference Impact Conference: 2013 Session Conference Table*, <http://edr.state.fl.us/Content/conferences/revenueimpact/2013RevenueImpactSummary.xls> (last visited Mar. 31, 2013).

estimated to have an insignificant fiscal impact, the bill is exempted from the local mandate requirements.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill prohibits governmental entities from charging a fee on bona fide agricultural activities which are regulated by certain agencies of the state or federal government.

B. Private Sector Impact:

Certain agricultural producers would be spared the expense associated with adhering to duplicative regulations or paying certain fees imposed by governmental entities in the state.

C. Government Sector Impact:

The bill prohibits governmental entities from charging fees on certain agricultural activities occurring on agricultural lands.

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.

By Senator Brandes

22-01221A-13

20131190__

A bill to be entitled

An act relating to agricultural lands; amending s. 163.3162, F.S.; revising a definition; prohibiting a governmental entity from adopting or enforcing any prohibition, restriction, regulation, or other limitation or from charging a fee on a specific agricultural activity of a bona fide farm operation on land classified as agricultural land under certain circumstances; providing an effective date.

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

Section 1. Paragraphs (b) through (j) of subsection (3) of section 163.3162, Florida Statutes, are redesignated as paragraphs (c) through (k), respectively, paragraph (d) of subsection (2) and paragraph (a) of subsection (3) are amended, and a new paragraph (b) is added to subsection (3) of that section, to read:

163.3162 Agricultural Lands and Practices.—

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

(d) "Governmental entity" has the same meaning as provided in s. 164.1031. The term does not include a water management district, a water control district established under chapter 298, or a special district created by special act for water management purposes.

(3) DUPLICATION OF REGULATION.—Except as otherwise provided in this section and s. 487.051(2), and notwithstanding any other law, including any provision of chapter 125 or this chapter:

(a) A governmental entity ~~county~~ may not exercise any of

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22-01221A-13

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its powers to adopt or enforce any ordinance, resolution, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if such activity is regulated through implemented best management practices, interim measures, or regulations adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program; or if such activity is expressly regulated by the United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

(b) A governmental entity may not charge a fee on a specific agricultural activity of a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if such agricultural activity is regulated through implemented best management practices, interim measures, or rules adopted under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program or if such agricultural activity is expressly regulated by the United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

Section 2. This act shall take effect July 1, 2013.

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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 Appropriations Subcommittee on Finance and Tax

BILL: CS/SB 1200

INTRODUCER: Appropriations Subcommittee on Finance and Tax; and Senator Simpson

SUBJECT: Taxation of Property

DATE: April 11, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Favorable
2.	Weidenbenner	Halley	AG	Favorable
3.	Babin	Diez-Arguelles	AFT	Fav/CS
4.			AP	
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/SB 1200 eliminates the authority of a Value Adjustment Board (VAB) under its own motion, to review certain land classifications and exemptions granted by a property appraiser. The bill also eliminates two statutory requirements directing the property appraiser to reclassify lands as nonagricultural.

The Revenue Estimating Conference (REC) determined that this bill will reduce local property tax revenues by \$0.23 million per year.

This bill substantially amends the following sections of the Florida Statutes: 193.461, 193.503, 193.625, and 196.194.

II. Present Situation:

Property Valuation in Florida

The Florida Constitution requires that all property be assessed at just value (fair market value) for ad valorem tax purposes.¹ However, sections 3, 4, and 6, Article VII of the Florida Constitution, provide for specified assessment limitations, property classifications, and exemptions. After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, the assessed value is determined. The assessed value is then reduced by any applicable exemptions to produce the taxable value.²

Agricultural Property Classification

For property to be classified as agricultural land, it must be used “primarily for bona fide agricultural purposes.”³ “Agricultural purposes” include, but are not limited to: horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; and all forms of farm products and farm production.⁴

Property appraisers are required to reclassify lands as nonagricultural when:

- The land is diverted from an agricultural to a nonagricultural use;
- The land is no longer being utilized for agricultural purposes;
- The land has been zoned to a nonagricultural use at the request of the owner.⁵

A county commission may reclassify lands from agricultural to nonagricultural when there is contiguous urban or metropolitan development and the county commission finds that the continued use of the lands for agricultural purposes will act as a deterrent to the timely and orderly expansion of the community.⁶

Value Adjustment Boards

After the property appraiser determines the assessed value of all property, the county convenes a value adjustment board (VAB) to hear petitions from affected taxpayers regarding assessments. Each VAB is composed of two members from the county governing board, one member from the school board, and two citizen members.⁷ Counties with a population of more than 75,000 must appoint special magistrates to take testimony and provide recommendations to the board.⁸

¹ Fla. Const. Art. VII, s. 4

² See s. 196.031, F.S.

³ Section 193.461(3)(b), F.S.

⁴ Section 193.461(5), F.S.

⁵ Section 193.461(4)(a), F.S.

⁶ Section 193.461(4)(b), F.S.

⁷ Section 194.015, F.S.

⁸ Section 194.035, F.S. Counties with a population of less than 75,000 may appoint special magistrates, but such is not required.

The value adjustment board meets for the following purposes:

- To hear petitions relating to assessments filed pursuant to s. 194.011(3), F.S.;
- To hear complaints relating to homestead exemptions pursuant to s. 196.151, F.S.;
- To hear appeals from tax exemptions that have been denied, or disputes pertaining to granted exemptions pursuant to s. 196.011, F.S.; and
- To hear appeals concerning ad valorem tax deferrals and classifications.⁹

Not only can VABs review assessments, exemptions and classifications when a taxpayer petitions for review, but the VAB is also permitted, on its own motion, to review agricultural land, historic property, and high-water recharge land classifications, as well as exemptions granted by the property appraiser.

III. Effect of Proposed Changes:

Section 1 amends s. 193.461, F.S., removing the VAB's authority to review agricultural classifications on its own motion.

The bill also:

- Deletes the requirement that a property appraiser reclassify agricultural property as nonagricultural when the owner requests the property be rezoned as nonagricultural;
- Removes the county commission's authority to reclassify agricultural land as nonagricultural when there is contiguous urban development and the board finds that the continued agricultural use of the land will deter the expansion of the community.

Section 2 amends s. 193.503, F.S., removing the VAB's authority to initiate a review of historic property classifications on its own motion.

Section 3 amends s. 193.625, F.S., removing the VAB's authority to initiate a review of high-water recharge land classifications on its own motion.

Section 4 amends s. 196.194, F.S., removing the VAB's authority to initiate a review of property tax exemptions on its own motion.

Section 5 provides that the bill takes effect upon becoming a law and applies retroactively to January 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18 of the Florida Constitution, prohibits laws requiring counties or municipalities to spend funds or that limit their ability to raise revenues. Subsection 18(d)

⁹ Section 194.032(1)(a)1.-4., F.S.

provides an applicable exemption for 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 or \$1.9 million for FY 2012-13.¹⁰ The REC determined that this bill will reduce local property tax revenues by \$0.23 million per year. Thus, this bill is exempt from the mandates requirement.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The REC has determined that this bill will reduce local property tax revenues by \$0.23 million per year.

B. Private Sector Impact:

The bill may result in more landowners retaining the agricultural classification on their property.

C. Government Sector Impact:

None.

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.)

The CS:

¹⁰ Based on the Demographic Estimating Conference’s final population estimate for April 1, 2012, which was adopted on November 7, 2012. The Executive Summary can be found at: <http://edr.state.fl.us/Content/conferences/population/demographicsummary.pdf>.

- Retains a presumption in current law that agricultural land sold for three or more times the agricultural assessment will no longer be used for agricultural purposes.
- Changes the effective date from January 1, 2012 to 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.



773430

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Ring)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 68 - 74
and insert:

(c) Sale of land for a purchase price that ~~which~~ is three
or more times the agricultural assessment placed on the land
creates ~~shall create~~ a presumption that such land is not used
primarily for bona fide agricultural purposes. Upon a showing of
special circumstances by the landowner demonstrating that the
land is to be continued in bona fide agriculture, this
presumption may be rebutted.



773430

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

14 And the title is amended as follows:

15 Delete lines 13 - 16

16 and insert:

17 circumstances; amending s.



484096

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Ring)
recommended the following:

Senate Amendment

Delete lines 124 - 125
and insert:

Section 5. This act shall take effect upon becoming a law
and apply retroactively to January 1, 2013.

By Senator Simpson

18-00760-13

20131200__

1 A bill to be entitled
 2 An act relating to the taxation of property; amending
 3 s. 193.461, F.S.; deleting authorization for a value
 4 adjustment board upon its own motion to review lands
 5 classified by a property appraiser as agricultural or
 6 nonagricultural; deleting a requirement that the
 7 property appraiser must reclassify as nonagricultural
 8 certain lands that have been zoned to a
 9 nonagricultural use; deleting authorization for a
 10 board of county commissioners to reclassify as
 11 nonagricultural certain lands that are contiguous to
 12 urban or metropolitan development under specified
 13 circumstances; deleting an evidentiary presumption
 14 that land is not being used primarily for bone fide
 15 agricultural purposes if it is purchased for a certain
 16 amount above its agricultural assessment; amending s.
 17 193.503, F.S.; deleting authorization for a value
 18 adjustment board upon its own motion to review
 19 property granted or denied classification by a
 20 property appraiser as historic property that is being
 21 used for commercial or certain nonprofit purposes;
 22 amending s. 193.625, F.S.; deleting authorization for
 23 a value adjustment board upon its own motion to review
 24 land granted or denied a high-water recharge
 25 classification by a property appraiser; amending s.
 26 196.194, F.S.; deleting authorization for a value
 27 adjustment board to review property tax exemptions
 28 upon its own motion or motion of the property
 29 appraiser and deleting certain notice requirements

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

18-00760-13

20131200__

30 relating to the review of such exemptions; providing
 31 for retroactive application; providing an effective
 32 date.
 33

34 Be It Enacted by the Legislature of the State of Florida:
 35

36 Section 1. Subsections (2) and (4) of section 193.461,
 37 Florida Statutes, are amended to read:
 38 193.461 Agricultural lands; classification and assessment;
 39 mandated eradication or quarantine program.—

40 (2) Any landowner whose land is denied agricultural
 41 classification by the property appraiser may appeal to the value
 42 adjustment board. The property appraiser shall notify the
 43 landowner in writing of the denial of agricultural
 44 classification on or before July 1 of the year for which the
 45 application was filed. The notification shall advise the
 46 landowner of his or her right to appeal to the value adjustment
 47 board and of the filing deadline. ~~The board may also review all~~
 48 ~~lands classified by the property appraiser upon its own motion.~~
 49 The property appraiser shall have available at his or her office
 50 a list by ownership of all applications received showing the
 51 acreage, the full valuation under s. 193.011, the valuation of
 52 the land under the provisions of this section, and whether or
 53 not the classification requested was granted.

54 (4) ~~(a)~~ The property appraiser shall reclassify the
 55 following lands as nonagricultural:

56 (a)1- Land diverted from an agricultural to a
 57 nonagricultural use.

58 (b)2- Land no longer being utilized for agricultural

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

18-00760-13

20131200__

59 purposes.

60 ~~3. Land that has been zoned to a nonagricultural use at the~~
 61 ~~request of the owner subsequent to the enactment of this law.~~

62 ~~(b) The board of county commissioners may also reclassify~~
 63 ~~lands classified as agricultural to nonagricultural when there~~
 64 ~~is contiguous urban or metropolitan development and the board of~~
 65 ~~county commissioners finds that the continued use of such lands~~
 66 ~~for agricultural purposes will act as a deterrent to the timely~~
 67 ~~and orderly expansion of the community.~~

68 ~~(c) Sale of land for a purchase price which is three or~~
 69 ~~more times the agricultural assessment placed on the land shall~~
 70 ~~create a presumption that such land is not used primarily for~~
 71 ~~bona fide agricultural purposes. Upon a showing of special~~
 72 ~~circumstances by the landowner demonstrating that the land is to~~
 73 ~~be continued in bona fide agriculture, this presumption may be~~
 74 ~~rebutted.~~

75 Section 2. Subsection (7) of section 193.503, Florida
 76 Statutes, is amended to read:

77 193.503 Classification and assessment of historic property
 78 used for commercial or certain nonprofit purposes.—

79 (7) Any property owner who is denied classification under
 80 this section may appeal to the value adjustment board. The
 81 property appraiser shall notify the property owner in writing of
 82 the denial of such classification on or before July 1 of the
 83 year for which the application was filed. The notification shall
 84 advise the property owner of his or her right to appeal to the
 85 value adjustment board and of the filing deadline. ~~The board may~~
 86 ~~also review all property classified by the property appraiser~~
 87 ~~upon its own motion.~~ The property appraiser shall have available

18-00760-13

20131200__

88 at his or her office a list by ownership of all applications
 89 received showing the full valuation under s. 193.011, the
 90 valuation of the property under the provisions of this section,
 91 and whether or not the classification requested was granted.

92 Section 3. Subsection (2) of section 193.625, Florida
 93 Statutes, is amended to read:

94 193.625 High-water recharge lands; classification and
 95 assessment.—

96 (2) Any landowner whose land is within a county that has a
 97 high-water recharge protection tax assessment program and whose
 98 land is denied high-water recharge classification by the
 99 property appraiser may appeal to the value adjustment board. The
 100 property appraiser shall notify the landowner in writing of the
 101 denial of high-water recharge classification on or before July 1
 102 of the year for which the application was filed. The
 103 notification must advise the landowner of a right to appeal to
 104 the value adjustment board and of the filing deadline. ~~The board~~
 105 ~~may also review all lands classified by the property appraiser~~
 106 ~~upon its own motion.~~ The property appraiser shall have available
 107 at her or his office a list by ownership of all applications
 108 received showing the acreage, the full valuation under s.
 109 193.011, the valuation of the land under the provisions of this
 110 section, and whether or not the classification requested was
 111 granted.

112 Section 4. Subsection (1) of section 196.194, Florida
 113 Statutes, is amended to read:

114 196.194 Value adjustment board; notice; hearings;
 115 appearance before the board.—

116 (1) The value adjustment board shall hear disputed or

18-00760-13

20131200__

117 appealed applications for exemption and shall grant such
118 exemptions in whole or in part in accordance with criteria set
119 forth in this chapter. ~~It may review exemptions on its own~~
120 ~~motion or upon motion of the property appraiser. Review of an~~
121 ~~exemption application upon motion of the board shall not be held~~
122 ~~until the applicant has had at least 5 calendar days' notice of~~
123 ~~the intent of the board to review the application.~~

124 Section 5. This act shall take effect upon becoming a law
125 and apply retroactively to January 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 Appropriations Subcommittee on Finance and Tax

BILL: CS/SB 1280

INTRODUCER: Appropriations Subcommittee on Finance and Tax and Senator Sachs

SUBJECT: Tax Dealer Collection Allowances

DATE: April 11, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McLaughlin	Klebacha	ED	Favorable
2.	Cote	Diez-Arguelles	AFT	Fav/CS
3.			AP	
4.				
5.				
6.				

I. Summary:

CS/SB 1280 revises the process through which sales tax dealers forgo the sales tax collection allowance and direct the collection allowance amount to be transferred into the Educational Enhancement Trust Fund. The proposed change would keep the election for the remainder of the calendar year unless the dealer indicates termination of the election by filing a return that deducts the collection allowance from the amount of tax due.

This bill has no impact on state or local revenues.

This bill provides an effective date of January 1, 2014.

This bill amends section 212.12 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 six percent tax on tangible personal property sold, used, consumed, distributed, stored for use or consumption, rented, or leased in Florida.¹

¹ See ss. 212.05 and 212.06, F.S.

Section 212.12(1)(d), F.S., allows sales tax dealers who are entitled to a collection allowance to direct the amount of the allowance be deposited into the Educational Enhancement Trust Fund (EETF) when filing a sales tax return with the Florida Department of Revenue. The return must be timely filed for the dealer to make the election.² If the return is filed late, or the election is not made on the return when filed, the dealer is prohibited from making the election for that reporting period.³ The dealer must make an election for each return filed.

The Educational Enhancement Trust Fund (EETF)

The EETF was established to administer the proceeds from lottery sales and the slot machine tax revenues.⁴ The first lottery revenues transferred to the EETF in each fiscal year are secured for debt service payable on the bonds issued by the state for the construction, maintenance, or repair of schools under the Classrooms First Program (the 1997 School Capital Outlay Bond Program) and the Classrooms for Kids Program (the 2003 Class Size Reduction Lottery Revenue Program).⁵

The revenue remaining in the EETF after providing for debt service obligations is appropriated to benefit public education, at the discretion of the Legislature.⁶ The largest appropriation from the Educational Enhancement Trust Fund⁷ is for the Bright Futures Scholarship Program, which is a merit-based scholarship program designed to provide college scholarships to students who achieve certain academic levels in high school.⁸

The next largest appropriations are the Florida School Recognition Program, which rewards individual public K-12 schools that sustain high performance or demonstrate exemplary improvement⁹ and the class size reduction appropriation, which provides operating funds to school districts for the purpose of reducing class sizes.¹⁰

Public educational programs and purposes funded by the EETF may include, but are not limited to: endowments, scholarships, matching funds, direct grants, research and economic development related to education, salary enhancement, contracts with independent institutions to conduct programs consistent with the state master plan for postsecondary education, and other educational programs or purposes deemed desirable by the Legislature.¹¹

III. Effect of Proposed Changes:

SB 1280 provides that the sales tax dealer's election to direct the amount of the allowance deposited into the EETF will remain the dealer's election for subsequent periods of the calendar

² s. 212.12(1)(a)2.b., F.S.

³ s. 212.12(1)(d)1, F.S.

⁴ See ss. 24.121(2) and 551.106(2)(b), F.S.

⁵ See ss. 24.121(2), 1013.68, 1013.70, 1013.735, and 1013.737, F.S.

⁶ s. 24.121(2), F.S.

⁷ *2012-13 Education Appropriations*, Florida Department of Education, October 2012, www.fldoe.org/feftp/pdf/lotbook.pdf (last visited March 21, 2013)

⁸ See ss. 1009.53-1009.538, F.S.

⁹ s. 1008.36, F.S.

¹⁰ See ss. 1003.03 and 1011.685, F.S.

¹¹ s. 24.121(5)(a), F.S.

year unless the dealer indicates termination of the election by filing a return that deducts the collection allowance from the amount of tax due. This would allow the sales tax dealer to make one election in a calendar year instead of having to make the election on each return.

The bill is effective January 1, 2014 and applies to sales and use tax returns due on or after February 1, 2014.

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:

In order to implement the statutory change in this bill, the Department of Revenue (DOR) may need to change the programming for the electronic sales and use tax return and the instructions regarding how to make the election.

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.)

Recommended CS by Appropriations Subcommittee on Finance and Tax on April 11, 2013:

The CS changes the effective date to January 1, 2014.

- B. **Amendments:**

None.



575878

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2013	.	
	.	
	.	
	.	

Appropriations Subcommittee on Finance and Tax (Sachs)
recommended the following:

Senate Amendment (with title amendment)

Delete line 59
and insert:

Section 2. The amendments to s. 212.12, Florida Statutes, made by this act apply to sales and use tax returns due on or after February 1, 2014.

Section 3. This act shall take effect January 1, 2014.

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

And the title is amended as follows:

Delete line 7



575878

13 and insert:
14 Trust Fund; providing applicability; providing an
15 effective date.

By Senator Sachs

34-00916-13

20131280__

A bill to be entitled

An act relating to tax dealer collection allowances; amending s. 212.12, F.S.; revising the process for dealers to elect to forgo the sales tax collection allowance and direct that the collection allowance amount be transferred into the Educational Enhancement Trust Fund; providing an effective date.

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

Section 1. Paragraph (d) of subsection (1) of section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1)

(d)1. A dealer entitled to the collection allowance provided in this section may elect to forgo ~~forego~~ the collection allowance and direct that the amount be transferred into the Educational Enhancement Trust Fund. Such an election must be made with the timely filing of a return, remains in effect for returns filed for subsequent reporting periods of the calendar year unless the dealer indicates termination of the election by filing a return that deducts the collection allowance from the amount of tax due, and may not be rescinded for a reporting period once the return for that reporting period is filed ~~made~~. If a dealer who makes such an election files a delinquent return, underpays the tax, or files an incomplete

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34-00916-13

20131280__

return, the amount transferred into the Educational Enhancement Trust Fund shall be the amount of the collection allowance remaining after resolution of liability for all of the tax, interest, and penalty due on that return or underpayment of tax. The Department of Education shall distribute the remaining amount from the trust fund to the school districts that have adopted resolutions stating that those funds will be used to ensure that up-to-date technology is purchased for the classrooms in the district and that teachers are trained in the use of that technology. Revenues collected in districts that do not adopt such a resolution shall be equally distributed to districts that have adopted such resolutions.

2. This paragraph applies to all taxes, surtaxes, and any local option taxes administered under this chapter and remitted directly to the department. This paragraph does not apply to a locally imposed and self-administered convention development tax, tourist development tax, or tourist impact tax administered under this chapter.

3. Revenues from the dealer-collection allowances shall be transferred quarterly from the General Revenue Fund to the Educational Enhancement Trust Fund. The Department of Revenue shall provide to the Department of Education quarterly information about such revenues by county to which the collection allowance was attributed.

Notwithstanding any provision of chapter 120 to the contrary, the Department of Revenue may adopt rules to carry out the amendment made by chapter 2006-52, Laws of Florida, to this section.

Page 2 of 3

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34-00916-13

20131280__

59

Section 2. This act shall take effect July 1, 2013.

II. Present Situation:

Local Discretionary Sales Surtax

A “surtax” is an extra tax or charge.¹ Sections 212.054 and 212.055, F.S., authorize Florida counties to charge a discretionary sales surtax on all transactions subject to the state sales and use tax. Only those surtaxes specifically designated may be levied.

Section 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions and on communications services, defined in ch. 202, F.S.² The eight surtaxes are the:

- Charter county and regional transportation system surtax,
- Local government infrastructure surtax,
- Small county surtax,
- County public hospital surtax,
- School capital outlay surtax,
- Voter-approved indigent care surtax,
- Emergency fire rescue services and facilities surtax, and
- Indigent care and trauma center surtax.

The maximum discretionary sales surtax that any county can levy depends upon the county’s eligibility for the taxes listed in s. 212.055, F.S. Currently, the maximum surtax actually imposed is 1.5 percent in several counties;³ however, the theoretical maximum rate ranges between 2 percent and 3.5 percent, depending on the specifics of each individual county. In general, the levy of a particular tax is subject to county voter approval.

The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state tax. The sales amount is not subject to the tax if the property or service is delivered within a county that does not impose a surtax. The surtax does not apply to a sales amount above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any services, rentals of real property, or transient rentals.

Miami-Dade County currently imposes two local discretionary surtaxes: the Charter County Transit System Surtax at a 0.5 percent rate and the County Public Hospital Surtax at a 0.5 percent rate.⁴ It does not impose the Local Government Infrastructure Surtax, and the Miami-

¹ Black’s Law Dictionary (9th ed., 2009), tax.

² The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

³ See Florida Department of Revenue, *Discretionary Sales Surtax Information: Calendar Year 2013*, available at <http://dor.myflorida.com/dor/forms/2013/dr15dss.pdf>.

⁴ Florida Department of Revenue, History of Local Sales Tax and Current Rates by County (last updated January 1, 2013) available at https://revenue.law.state.fl.us/LawLibraryDocuments/2012/12/OTH-111189_History%20of%20sales%20tax,%201-01-13.pdf#search.

Dade School District does not levy the School Capital Outlay Surtax, although these surtaxes are authorized and could be levied if approved by a referendum.

Postsecondary Educational Institutions

Section 1000.21, F.S., provides system-wide definitions as used in the Florida K-20 Education Code. There are 28 postsecondary educational institutions in the Florida College System designated as Florida College System institutions.⁵ Among them is Miami Dade College, which serves Miami-Dade County.

Home-Rule Charter Counties

Section 125.011(1), F.S., defines a county as:

. . . any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, if the county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word "county" within the above provisions shall include "board of county commissioners" of such county.

The local governments authorized to operate under a home rule charter in the State Constitutions of 1885 and 1968 are the city of Key West and Monroe County, Dade County, and Hillsborough County. Of these, only Miami-Dade County operates under a home-rule charter, which was adopted under this constitutional provision on May 21, 1957. In the future, it would be possible for Key West/Monroe County and Hillsborough County to adopt charters under the authorization in the Constitution. To do so, the city of Key West and Monroe County would have to consolidate and adopt a home-rule charter. Hillsborough County would have to abolish the charter it adopted in 1985 under the Optional Charter County Law in Part IV of ch. 125, F.S., and adopt in its place a charter as authorized under the Constitution.⁶

III. Effect of Proposed Changes:

This bill amends s. 212.055, F.S., to add a ninth discretionary sales surtax, known as the Florida College Surtax, authorizing a county as defined in s. 125.011(1), F.S., to levy up to 0.5 percent for the benefit of a Florida College System institution (institution) located in the county. The surtax requires an ordinance conditioned upon approval by a majority of county electors voting in a referendum.

The ordinance must outline a plan for permissible uses of surtax proceeds developed by the institution's board of trustees. Proceeds must be set aside and invested as permitted by law, with the principal and income used for purposes

⁵ Prior to the 2011, these institutions were known as "Florida colleges" or "community colleges." See Chapter 2011-5, s. 7, Laws of Fla.

⁶ This discussion is drawn from Florida Senate Policy and Steering Committee on Ways and Means, *CS/SB 1576 Analysis: Discretionary Sales Surtax* (April 10, 2009) (on file with the Senate Committee on Community Affairs).

including but not limited to academic workforce training programs, capital expenditures and infrastructure projects, and campus fixed capital costs.

The expense of a referendum called for by the institution can only be paid with private source or college auxiliary funds and any referendum must be preceded by 30 days' notice. Referendum ballot guidelines are specified and include a question format currently utilized for other discretionary surtax referenda. Proceeds from the surtax must be deposited into a Florida Prime⁷ account managed by the Florida State Board of Administration.

Upon approval of a referendum, an independent oversight review board is charged with approving surtax proceeds expenditures. All expenditures must be outlined by the institution in an annual allocation spending plan. Various appointments to the seven-member board are made by the trustees of the institution, the county legislative delegation, the Greater Miami Chamber of Commerce, the United Way of Miami-Dade County and the Beacon Council.⁸ Oversight board member terms are four years in length.

An institution's annual apportionment of state funds may not be reduced because the institution has received Florida College Surtax funds. Any discretionary sales surtax approved by voters expires after 5 years.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This bill may be constitutionally challenged under Art. III, s. 11(a)(2), Florida Constitution, by alleging that the proposed legislation is a special law or general law of local application relating to taxes. Art. III, s. 11(a)(2), Florida Constitution, prohibits a special law or general law of local application pertaining to the assessment or collection of taxes. Pursuant to Art. VII, s. 9(a), Florida Constitution, counties may levy non-ad valorem taxes as authorized under general law.

The courts have defined a general law to mean "[a] statute relating to subdivisions of the state or to subjects, persons or things of a class, based upon proper distinctions and

⁷ Florida Prime is the state's Local Government Surplus Funds Trust Fund.

⁸ Beacon Council is Miami-Dade County's official economic development partnership.

differences that inhere in or are peculiar or appropriate to the classification.”⁹ A general law may contain classifications, and the legislature has wide discretion in making such classifications, if they are reasonable.¹⁰ In order for a classification to meet the requirements of a general law, the classification: (1) may not be simply a descriptive technique used to identify particular subdivisions to which the statute applies, (2) must operate uniformly among similar situated subdivisions, and (3) may not be arbitrary.¹¹ When a classification is made by the Legislature in the enactment of general laws, the presumption is in favor of the classification’s reasonableness.¹²

This bill authorizes counties, as defined in s. 125.011(1), F.S., to levy a non-ad valorem surtax under certain circumstances. Three counties are potentially eligible to levy the bill’s newly created surtax in the future; however, only Miami-Dade County is currently eligible to levy the surtax. In *Metropolitan Dade County v. Golden Nugget Group*, the court found, in pertinent part, that an act, which authorized counties, as defined in s. 125.011(1), F.S., to levy a convention development tax on specified rentals or leases, was not a general law of local application notwithstanding that only Miami Dade County was authorized to levy the tax.¹³ Similarly, this bill defines authorized counties in a manner that is identical to the classification scheme upheld in *Metropolitan Dade County v. Golden Nugget Group*. However, the court noted in that case that the classification was reasonable because the affected counties each have substantial tourist-oriented economies and the tax’s purpose was to construct or improve convention centers for promoting tourism.¹⁴ Accordingly, the court has not addressed whether the classification based on a home-rule charter was an impermissible closed class because it potentially applied to only three counties.¹⁵

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not determined the fiscal impact of this bill, but information from the Local Government Financial Information Handbook indicates a 0.5 cent surtax in Miami-Dade County would generate about \$200 million in local fiscal year 2012-13.

B. Private Sector Impact:

The sales tax rate would increase in Miami-Dade County if the county approves an ordinance and Miami-Dade County voters approve the ordinance. County residents and visitors would pay about \$200 million more in sales tax each year for up to five years.

⁹ See *Metropolitan Dade County v. Golden Nugget Group*, 448 So.2d 515, 519 (Fla. 3rd DCA 1984), *aff’d*, 464 So. 2d 535 (Fla. 1985).

¹⁰ *Id.*

¹¹ See *City of Miami v. McGrath*, 824 So. 2d 143, 150-151 (Fla. 2002).

¹² See *Metropolitan Dade County*, *supra* note 1, at 519.

¹³ See *id.* at 19-20.

¹⁴ See *Golden Nugget Group v. Metropolitan Dade County*, 464 So. 2d 535, 537 (Fla. 1985).

¹⁵ *City of Miami v. McGrath*, 824 So. 2d at 152.

C. **Government Sector Impact:**

Miami Dade College would be the recipient approximately \$200 million in sales surtax proceeds each year for up to five years if the county enacts an ordinance to levy the surtax and Miami-Dade County voters approve it by referendum.

VI. **Technical Deficiencies:**

The Department of Revenue (DOR) recommends replacing line 83 of the bill with the following:¹⁶

surtax must be transferred by the Department of Revenue into a

because it cannot make deposits into a Florida Prime Account.

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 March 20, 2013:

- Removes student scholarships and financial aid and land acquisition from the stated permissible uses of surtax funds.
- Revises who appoints the oversight board.
- Reduces board terms of service to 4 years.
- Limits the surtax to a length of 5 years.

B. **Amendments:**

None.

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

¹⁶ Florida Department of Revenue, 2013 Bill Analysis, *SB 1718: Discretionary Sales Surtaxes* (Mar.8, 2013) available at <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=1383> (last visited Mar. 15, 2013).

By the Committee on Community Affairs; and Senators Flores,
Bullard, Margolis, and Diaz de la Portilla

578-02816A-13

20131718c1

1 A bill to be entitled
2 An act relating to discretionary sales surtaxes;
3 amending s. 212.055, F.S.; authorizing a county
4 defined in s. 125.011(1), F.S., to levy a surtax up to
5 a specified amount for the benefit of a Florida
6 College System institution in the county pursuant to
7 an ordinance conditioned to take effect upon approval
8 in a county referendum; requiring the ordinance to
9 include a plan for the use of the proceeds; providing
10 referendum requirements and procedures; requiring that
11 the proceeds from the surtax be deposited and managed
12 in a specified manner; establishing an oversight board
13 with specified duties, responsibilities, and
14 procedures relating to the expenditure of surtax
15 proceeds; providing for the appointment of members of
16 the oversight board; requiring that the board of
17 trustees of a college receiving surtax proceeds
18 prepare an annual plan for submission to the oversight
19 board for approval; providing that state funding may
20 not be reduced because an institution receives surtax
21 funds; providing for the scheduled expiration of the
22 surtax; providing an effective date.

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

25
26 Section 1. Subsection (9) is added to section 212.055,
27 Florida Statutes, to read:
28 212.055 Discretionary sales surtaxes; legislative intent;
29 authorization and use of proceeds.—It is the legislative intent

Page 1 of 5

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

578-02816A-13

20131718c1

30 that any authorization for imposition of a discretionary sales
31 surtax shall be published in the Florida Statutes as a
32 subsection of this section, irrespective of the duration of the
33 levy. Each enactment shall specify the types of counties
34 authorized to levy; the rate or rates which may be imposed; the
35 maximum length of time the surtax may be imposed, if any; the
36 procedure which must be followed to secure voter approval, if
37 required; the purpose for which the proceeds may be expended;
38 and such other requirements as the Legislature may provide.
39 Taxable transactions and administrative procedures shall be as
40 provided in s. 212.054.

41 (9) FLORIDA COLLEGE SURTAX.—A county as defined in s.
42 125.011(1) may levy a surtax of up to 0.5 percent for the
43 benefit of a Florida College System institution as defined in s.
44 1000.21, located in the county, pursuant to an ordinance that is
45 conditioned to take effect only upon approval by a majority vote
46 of the electors of the county voting in a referendum.

47 (a) The ordinance must set forth a plan for using the surtax
48 proceeds for the benefit of the Florida College System
49 institution by the institution's board of trustees. Such plan
50 must provide for the permissible uses of the surtax proceeds,
51 including, but not limited to, the maintenance, improvement, and
52 expansion of academic and workforce training programs; teaching
53 enhancements; capital expenditures and infrastructure projects;
54 fixed capital costs associated with the construction,
55 reconstruction, renovation, maintenance, or improvement of
56 facilities and campuses that have a useful life expectancy of at
57 least 5 years; deferred maintenance; land improvement, design,
58 and engineering costs related thereto; and the expansion and

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

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59 enhancement of facilities at all institution sites within the
 60 county. The proceeds of the surtax must be set aside and
 61 invested as permitted by law, with the principal and income to
 62 be used for the purposes listed in this subsection as
 63 administered by the board of trustees.

64 (b) If the county, at the request of a Florida College
 65 System institution in the county, calls for a referendum, the
 66 expense of holding the referendum may not be paid with student
 67 fees or moneys that the institution receives from the state, but
 68 shall be paid only with funds received from private sources or
 69 with college auxiliary funds. The county shall provide at least
 70 30 days' notice of the election as provided under s. 100.342.

71 (c) The referendum providing for the imposition of the
 72 surtax must include a statement that provides a brief and
 73 general description of the purposes for which the proceeds of
 74 the surtax may be used, conform to the requirements of s.
 75 101.161, and be placed on the ballot by the governing body of
 76 the county. The following questions shall be placed on the
 77 ballot:

78
 79 FOR THE. . .CENTS TAX
 80 AGAINST THE. . .CENTS TAX
 81

82 (d) Upon approval of the referendum, proceeds from the
 83 surtax must be deposited by the Department of Revenue into a
 84 Florida Prime account managed by the Florida State Board of
 85 Administration and used only for the operation, maintenance, and
 86 administration of the Florida College System institution within
 87 that county.

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88 (e) Upon approval of the referendum, an oversight board
 89 shall be established to review, accept, or amend expenditures of
 90 the proceeds of the surtax and to review the plan prepared by
 91 the board of trustees pursuant to paragraph (f). Annually, or as
 92 needed, the oversight board shall meet to approve the proposed
 93 spending plan.

94 1. The board shall be composed of seven members who are
 95 residents of the county and appointed as follows:

96 a. Two members appointed by the board of trustees of the
 97 Florida College System institution, who may not be members of
 98 the board of trustees.

99 b. Two members appointed by the chair of the county
 100 legislative delegation.

101 c. One member appointed by the board of directors of the
 102 Greater Miami Chamber of Commerce.

103 d. One member appointed by the board of directors of the
 104 United Way of Miami-Dade County, who must be a member of the
 105 board of directors.

106 e. One member appointed by the Beacon Council, Miami-Dade
 107 County's official economic development partnership.

108 2. Initial appointments to the oversight board shall be
 109 made by the respective entities within 60 days after the passage
 110 of the referendum. Each member shall be appointed for a 4-year
 111 term. A vacancy on the board shall be filled for the unexpired
 112 portion of the term in the same manner as the original
 113 appointment. A member appointed to fill a vacancy may not serve
 114 for more than the remaining portion of the unexpired term.

115 (f) Consistent with the purposes stated in the plan
 116 included in the ordinance under paragraph (a), the board of

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117 trustees of the Florida College System institution shall
118 annually prepare a plan that specifies how the board of trustees
119 intends to allocate and expend the funds for the institution's
120 upcoming fiscal year and submit such plan to the oversight board
121 for approval.

122 (g) The annual apportionment of state funds for the support
123 of a Florida College System institution allocated under general
124 law may not be reduced because the institution has received
125 funds pursuant to a sales surtax levied under this subsection.

126 (h) A surtax imposed under this subsection expires 5 years
127 after the effective date of the surtax.

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

**APPROPRIATIONS SUBCOMMITTEE ON
FINANCE AND TAX
COMMITTEE MEETING
APRIL 11, 2013**

**REVIEW OF SELECTED ECONOMIC DEVELOPMENT
TAX INCENTIVES**

REVIEW OF SELECTED ECONOMIC DEVELOPMENT TAX INCENTIVES

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INTERNATIONAL BANKING FACILITY INCOME DEDUCTION

Section 220.63(5), F.S.

INCENTIVE:

- Income from international banking activities is not subject to Florida Corporate Income Tax.
- Although the statute is more detailed, qualifying income generally includes income derived from:
 - loans to foreign persons,
 - deposits with foreign banks or other international banking facilities; and
 - foreign exchange trading or hedging transactions.

PURPOSE:

- To encourage banks that engage in international banking activities to locate their physical facilities in Florida.
- Note: At the time this deduction was adopted, federal banking laws were such that Florida's deduction was restricted to Florida banks that had international banking facilities. Because of changes to federal law, a bank paying tax in Florida can take advantage of the deduction even if the international banking facility is located in another state.

QUALIFYING REQUIREMENTS:

- The deduction applies only to income from international banking activities. International banking accounts must be segregated from other banking organization accounts.

APPROVAL / OVERSIGHT / LIMITATIONS:

- No prior approval necessary.
- DOR reviews deductions through its normal auditing procedures.

SIGNIFICANT HISTORY:

- 1981 – Created.
- 1994 – Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 allowed interstate branch banking throughout the U.S., except in states that passed laws to prohibit it.

FISCAL IMPACT:

- \$10.8 Million per year

ADDITIONAL INFORMATION:

- The international banking facility deduction was created during an expansion of U.S. banks into international banking, apparently pursuant to increased authority granted by the federal Edge Act of 1919. See 12 U.S.C. ss. 611-631.
- The initial intent of the federal authority was directed at U.S. banks being permitted to conduct more activities outside of the U.S.
- U.S. banks taking advantage of this authority had discretion in choosing the location of their facilities for managing these accounts. Florida's deduction was created in an apparent attempt to have these facilities located in Florida.

SINGLE SALES FACTOR APPORTIONMENT

Sections 220.153, F.S.

INCENTIVE:

- Allows a multi-state corporation to use single sales factor apportionment to determine its Florida corporate taxable income.
- Typically, Florida uses a 3-factor formula to determine taxable income. The use of a single sales factor apportionment formula benefits corporations with a large percentage of sales to out-of-state customers.

PURPOSE:

- To encourage capital investment in Florida.

SIGNIFICANT HISTORY:

- 2011 – created.

QUALIFYING REQUIREMENTS:

- The company must declare a 2-year period for measuring its capital investment in Florida, and then within that 2-year period invest at least \$250 million into Florida real property, fixtures, and equipment.
- Expenditures to acquire an existing business and expenditures in excess of \$125 million for land or buildings do not qualify.
- There is no requirement that the company demonstrate that the incentive caused it to make the investment in Florida.

APPROVAL / OVERSIGHT / LIMITATIONS:

- DEO reviews and approves the qualifying capital expenditures.
- DOR oversees the use of apportionment factors through its normal auditing procedures.
- The first year during which single sales factor appointment could be used is a taxable year beginning on or after January 1, 2013.

FISCAL IMPACT:

- \$7.6 Million, beginning in 2013-2014, as originally estimated by the Revenue Estimating Conference in 2011.
- To date, 5 companies have filed notices of intent to begin their 2-year measurement period. One of the 5 companies has completed its \$250 million investment.

ADDITIONAL INFORMATION:

Program Participants	
1	CSX
2	Publix
3	NextEra Energy
4	Mosaic
5	(Confidential due to nature of project)

RESEARCH & DEVELOPMENT TAX CREDIT

Section 220.196, F.S.

INCENTIVE:

- Provides a credit against Corporate Income Tax for increasing research and development expenses in Florida. The credit is equal to 10 percent of the annual increase. Florida's credit is based on a similar federal credit.

PURPOSE:

- To encourage research and development activities within Florida.

QUALIFYING REQUIREMENTS:

- Companies must increase their qualifying research expenses in Florida over their average qualifying research expenses in Florida during the 4 immediately preceding years.
- The company must qualify for and receive the federal research and development credit.

APPROVAL / OVERSIGHT / LIMITATIONS:

- No prior approval necessary.
- Department of Revenue oversees through its normal auditing procedures.
- For companies that have not existed for 4 years, the credit amount is reduced 25 percent for each year that the business did not exist.
- Total credits may not exceed \$9 million per calendar year.

SIGNIFICANT HISTORY:

- 2011 – created.

FISCAL IMPACT:

- \$9 Million per year, as originally estimated by the Revenue Estimating Conference in 2011.

CAPITAL INVESTMENT TAX CREDIT

Section 220.191, F.S.

INCENTIVE:

- Corporate Income Tax credits and/or Insurance Premium Tax credits are provided to high-impact sector and qualified target industry companies, as well as corporate headquarters, if they invest significant capital (\$25 million or more) within Florida.

- High-impact sectors have evolved over time, but currently include:
 - Transportation Equipment (Aviation/Aerospace),
 - Silicon Technology,
 - Information Technology,
 - Life Sciences,
 - Financial Services,
 - Corporate Headquarters, and
 - Clean Energy.

- Qualified Target Industry business sectors include:
 - All High-impact sectors, and
 - Homeland Security and Defense.

PURPOSE:

- To encourage qualifying companies to locate or expand physical facilities in Florida.

QUALIFYING REQUIREMENTS:

CURRENT CAPITAL INVESTMENT TAX CREDIT QUALIFYING PROJECT TYPES					
	High-Impact Tier 1	High-Impact Tier 2	High-Impact Tier 3	Target Industry	Headquarters
Investment Required	\$25 Million	\$50 Million	\$100 Million	\$100 Million	\$250 Million
Taxes that the Credit can be Applied Against	Corporate Income Tax or Insurance Premium	Corporate Income Tax or Insurance Premium	Corporate Income Tax or Insurance Premium	Corporate Income Tax or Insurance Premium	Corporate Income Tax
Jobs Requirement	100 New Jobs	100 New Jobs	100 New Jobs	100 New, 900 New or Retained	1,500 New
Annual Credit Amount	5% of Eligible Costs	5% of Eligible Costs	5% of Eligible Costs	50% of increased tax liability arising out of the project	Lesser of \$15 million or 5% of Eligible Costs
Annual Credit Limit	50% of tax arising out of project	75% of tax arising out of project	100% of tax arising out of project	50% of increased tax liability arising out of project	\$15 million per year
Credit Period	20 years	20 Years	20 Years	5 years	20 years
Credit Carryover	None	None	Amounts not used within the 20-yr period can be taken between years 21 and 30	None	Annual unused amounts can be carried forward within the 20-yr period
Disproportionately Affected County Waiver	Between 7/1/11 and 6/30/14, the high impact sector requirement is waived for any business that relocates all or a portion of its out-of-state business to Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton or Wakulla County.			N/A	N/A
Taxpayer Permitted to Transfer Credit?	Generally no. However, if a project establishes a new solar panel manufacturing facility and generates at least 400 jobs within 6 months of commencing operations and pays those jobs at least \$50,000 average annual salary, it may transfer its permissible credit to another business.				

APPROVAL / OVERSIGHT / LIMITATIONS:

- Businesses must apply and have their projects pre-approved through DEO.
- After credit is awarded, DEO reviews businesses annually to ensure continuing requirements are satisfied.
- DOR oversees credit use through DOR's normal auditing procedures.
- Taxpayer is only permitted to offset the income generated from the qualifying project.
- Taxpayer can only offset a set percentage of its income from the qualifying project.
- Except for certain projects, unused credits expire at the end of each year.

SIGNIFICANT HISTORY:

- 1998 – Capital Investment Tax Credit (CITC) was created for high-impact sectors. High-impact sectors included Aviation/Aerospace, Automotive, and Silicon Technology. The credit only applied against Florida's Corporate Income Tax.
- 1999 – CITC was amended to allow the credit to apply to insurance premium tax.
- 1999 – DEO expanded high-impact sectors to include Information Technology.
- 2002 – DEO expanded high-impact sectors to include Life Sciences.
- 2003 – CITC was amended to temporarily allow financial services businesses to qualify for the CITC through June 30, 2004.
- 2004 – DEO expanded high-impact sectors to include Financial Services.
- 2005 – CITC was expanded to allow target industry businesses to qualify.
- 2006 – CITC was expanded to allow corporate headquarters to qualify.
- 2006 – DEO expanded high-impact sectors to include corporate headquarters.
- 2008 – CITC was amended to allow certain solar projects to transfer the credits.
- 2008 – DEO expanded high-impact sectors to include clean energy.
- 2011 – CITC was amended to allow certain tax credits to be used outside of the normal 20-year period following commencement of operations.
- 2011 – High-impact sector requirement was temporarily waived from 7/1/2011 through 6/30/2014, for Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, and Wakulla counties, due to the significant impacts from the Deepwater Horizon oil spill.

FISCAL IMPACT:

The following information is valid as of December 2012:

Number of Applicants recommended from Enterprise Florida, Inc.	24
Number of Applicants Certified by DEO to Participate	23
Amount of Credit Initially Certified	\$2.6 billion
Number of Projects Completed and Audited	5
Number of Completed Projects Taking Credit	5
Amount of Credit Taken	\$90.2 million
Amount of Credit Taken in 2011	\$5.6 million

ADDITIONAL INFORMATION:

Active CITC Participants (as of March 3, 2013)			
	Company	Investment	Location
1	Bellsouth Telecommunications, Inc.	\$127m	Statewide
2	Chase (dba Pricing, Billing & Commerce Solutions)	\$82.8m	Hillsborough
3	Chico's FAS, Inc.	unconfirmed	Lee
4	Chromalloy Castings	unconfirmed	Hillsborough
5	Cox Target Media	unconfirmed	Pinellas
6	Darden Restaurants, Inc.	\$150.1m	Orange
7	Embraer Aircraft Holdings	unconfirmed	Brevard
8	Harris Corporation.	unconfirmed	Brevard
9	Jabil Circuit, Inc.	unconfirmed	Pinellas
10	Lockheed Martin Astronautics	\$356m	Brevard
11	Lockheed Martin Missiles and Fire Control	unconfirmed	Orange
12	Nabi Biopharmaceuticals	unconfirmed	Broward
13	Nipro Diagnostics, Inc.	\$38.9m	Broward
14	Planar Energy Devices, Inc.	unconfirmed	Alachua
15	SAFT Industrial Battery Group	unconfirmed	Duval
16	T. Rowe Price Associates, Inc.	unconfirmed	Pasco
17	The Boeing Company	unconfirmed	Brevard
18	The Depository Trust & Clearing Corporation	\$35.7m	Hillsborough
19	UBS AG	unconfirmed	Dade
20	Verizon Corporate Resources Group, LLC	unconfirmed	Seminole

NEW MARKETS TAX CREDIT

Sections 288.9916, F.S.

INCENTIVE:

- Corporate Income Tax credits or Insurance Premium Tax credits equal to 39 percent of qualified investments in Community Development Entities (CDEs). The CDEs use qualified investments to fund projects in low-income communities. Florida's program is related to a similar federal government program.

PURPOSE:

- To encourage capital investment in low-income communities.

QUALIFYING REQUIREMENTS:

- The investor must make a qualifying investment in a CDE.
- The CDE must be certified under the federal New Markets Tax Program.
- CDEs must use these funds to invest in qualifying businesses in low-income communities. These investments are typically made in the form of loans.

APPROVAL / OVERSIGHT / LIMITATIONS:

- DEO reviews projects and approves credit allocations.
- DOR reviews credit use through its normal auditing procedures.
- The 39 percent credit must be taken in portions spread over 5 taxable years.
- A qualifying business may not receive more than \$10 million in qualifying investments under the entire program.
- The total amount of annual credits that may be awarded to CDEs is \$33.6 million per state fiscal year, and the total amount of credits that may be awarded for all years of the program is \$163.8 million.
- The New Markets Development Program expires December 31, 2022.

SIGNIFICANT HISTORY:

- 2000 -- The federal New Markets Tax Program was created by the Community Renewal Tax Relief Act.
- 2009 -- Florida created its New Markets Development Program, with an annual cap on credits of \$20 million, and a total program credit limit of \$97.5 million.
- 2012 -- The credit limits were raised to \$33.6 million per year and \$163.8 million for the life of the program, and some clarifying amendments were made.

FISCAL IMPACT:

- \$33.6 million per year; \$163.8 million over the life of the program.
- To date, \$163.8 million has been allocated.

ADDITIONAL INFORMATION:

PARTICIPATING COMMUNITY DEVELOPMENT ENTITIES	
1	Whitney New Market Fund, LLC
2	Urban Development Fund, LLC
3	Stonehenge Community Development, LLC
4	USBCDE Sub-CDE LXV, LLC
5	Enhanced Community Development, LLC
6	Advantage-BizCapital BIDCO I, LLC
7	Advantage- Southeast Community Development Fund V, LLC

QUALIFIED LOW-INCOME COMMUNITY BUSINESSES RECEIVING INVESTMENTS			
	BUSINESS	LOCATION	USE OF INVESTMENT
1	Cocoa Expo Sports	Cocoa	Construct Facility
2	Agri-Source Fuels, LLC	Dade City	Facility Expansion & Working Capital
3			
4			
5	Halifax Media Holdings & Halifax Media Acquisition	Daytona Beach	Media Acquisitions & Working Capital
6			
7	Contego Services Group, LLC	Fort Lauderdale	Working Capital
8	Patriot Risk Management	Fort Lauderdale	Employees
9	Harlem Heights	Fort Myers	Construct a Community Arts & Education Center
10	Coppert Art, LLC & Tropical Imports by Damar, LLC	Fort Pierce	Refinance & Working Capital
11	Prioria Robotics, Inc.	Gainesville	Working Capital for Contracts to provide UAVs
12			
13	Second Campbell Associates, LLC	Homestead	Create a Training Facility for a Restaurant Chain
14	Basic Products, LLC (Jerome Brown BBQ)	Jacksonville	Facility Renovations, New Equipment, Inventory & Working Capital
15	Litmark, Inc.	Jacksonville	Purchase Realty
16			
17	Lake Montessori by Weston, Inc.	Leesburg	Purchase Business & Working Capital
18	Advanced Footcare, Inc.	Miami	Purchase & Improve Realty
19	Sunburst Farms, Inc.	Miami	Corporate Headquarters & Warehouse Facilities

20	Summit Aerospace Holdings, LLC	Miami	Employees & Inventory
21	Aspira of Florida	Miami	Purchase & Renovate a Middle School
22	International Cruise Food and Hotel Supplies Inc.	Miami	Improve Operations
23			
24	Atlas Paper Mills, LLC	Miami	Refinance / Working Capital
25	University Plaza Properties, LLC	Miami	Construct Nursing Facility & Working Capital
26	Florida Trading Import & Export, Inc. (American Spice Trading Co., Inc.)	Miami	Refinance, New Equipment, Inventory & Working Capital
27	DCR Engineering Services, Inc.	Mulberry	Business Expansion & New Employees
28	ABC's of Learning and Growing, Inc.	North Lauderdale	Improve Operations
29			
30			
31	Okeechobee Funeral Home	Okeechobee	Purchase Realty
32	Orlando Telephone Company	Orlando	Operating Facility Investment
33	Harvill's Produce Company, Inc.	Orlando	Refinance and Improve Realty
34			
35	Orlando Historic Aloft Hotel	Orlando	Construct Facility
36	ESP Management of Florida, Inc.	Orlando	Refinance
37	Community Maritime Park Associates, Inc.	Pensacola	Construct Facility
38	BN Bio-Fuels, LLC	Riviera Beach	Construct a Bio-Fuel Facility
39	SunnyLand Solar, Inc.	Tallahassee	Construct Manufacturing Facility
40	Solar Distributors of America	Tallahassee	Construct commercial solar array, establish Headquarters & Working Capital
41	SolarSink, LLC	Tallahassee	Establish Manufacturing Facility
42	Manna Pro Products Florida	Tampa	Refinance & Working Capital
43	Glazer Children's Museum	Tampa	Finance Facility & Working Capital
44	Tampa Bay History Center	Tampa	Working Capital & Facility Improvements
45	Tampa Bay Arena, L.P.	Tampa	Facility Renovation
46	Drug Abuse Comprehensive Coordinating Office Properties, Inc.	Tampa	Construct Facility

URBAN HIGH-CRIME AREA JOB TAX CREDIT

Sections 212.097 and 220.1895, F.S.

INCENTIVE:

- Provides a credit of \$500 to \$2,000 per qualified job against either Sales Tax or Corporate Income Tax for creating new jobs within designated urban areas nominated by local governments and qualified by the Department of Economic Opportunity as high-crime areas.

PURPOSE:

- To encourage the creation of jobs in urban areas of Florida.¹

QUALIFYING REQUIREMENTS:

- “Qualified high-crime areas” were nominated by local governments and ranked by DEO based on:
 - Arrest rates for violent crimes and other crimes such as drug sales, drug possession, prostitution, vandalism, and civil disturbances
 - Reported crime volume and rate of specific property crimes
 - Percentage of reported index crimes that are violent in nature
 - Overall index crime volume for the area, and
 - Overall index crime rate for the geographic area
- Rankings are based on comparisons to other nominated areas, not to the community as a whole.
- Qualified high-crime areas are designated in 3 tiers, with tier one containing the highest crime areas. Available credits per job created are higher in higher-crime tiers.
- An area that has been designated as a federal Empowerment Zone is also considered a qualified high-crime area.
- Eligible businesses include sole proprietorships, firms, partnerships, and corporations predominantly engaged in:
 - Agriculture, forestry and fishing
 - Manufacturing
 - Retail
 - Public warehousing and storage
 - Hotels and other lodging places
 - Research and development
 - Motion picture production and allied services

¹ *State of Florida Job Creation Plan*, pg. 34.

- Public golf courses
- Amusement parks
- Targeted industries eligible for the targeted industry business tax refund
- Call centers or similar customer service operations that service a multistate or international market
- A qualified employee must work for an eligible business at least 36 hours per week for at least 3 months.
- A new business with at least 10 employees in a tier one area is eligible for tax credits; tiers two and three require 20 and 30 new employees, respectively.
- An existing business within a tier one area must add at least 5 employees; existing businesses in tiers two and three must add 10 and 15 more employees, respectively.
- To be eligible for this credit, an existing business's number of eligible employees as of one year before the application date must be at least as great as the number of qualified employees on January 1, 2009, or on the application date on which a credit was based for any previous application.
- A new or existing business will receive an additional \$500 credit for any qualified employee who is a welfare transition program participant.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity must approve all applications for this credit.
- The maximum credit amount that may be approved during any calendar year is \$5 million, and \$1 million is reserved for tier-one areas.
- Up to 15 high-crime areas are authorized by Florida Statutes but only 13 applications were submitted by local governments. These areas have not changed since the program's original application period in 1998.
- A municipality, or a county and one or more municipalities together, may not nominate more than one high-crime area. This limitation does not apply to Miami-Dade County.
- The size of a designated area is limited to 20 square miles in a community having more than 150,000 persons, and in smaller communities the allowable size is smaller. The designated area may consist of up to 3 noncontiguous parcels.

SIGNIFICANT HISTORY:

- Created in 1997.
- In 2001 qualified target industry businesses and motion picture production and allied services were added to the list of eligible businesses.
- In 2012, dates for the reference period number of employees for existing businesses applying for the credit for a second time or more were changed so that when a business is applying for the second time or more, the number of qualified employees the business has at the time must be no lower than the number of qualified employees that the employer had on January 1, 2009, or on the date of its previous application for this credit. The change also allowed a business to reapply for credits that had been disallowed under the law as it existed at the time of application, but would have been allowed under the law as amended.

FISCAL IMPACT:

- 13 Urban High-Crime Areas have been designated by DEO based on nominations by local governments.
- \$2.5 m in credits were approved in 2012.
- \$21.9 m in credits have been approved since the program's inception.

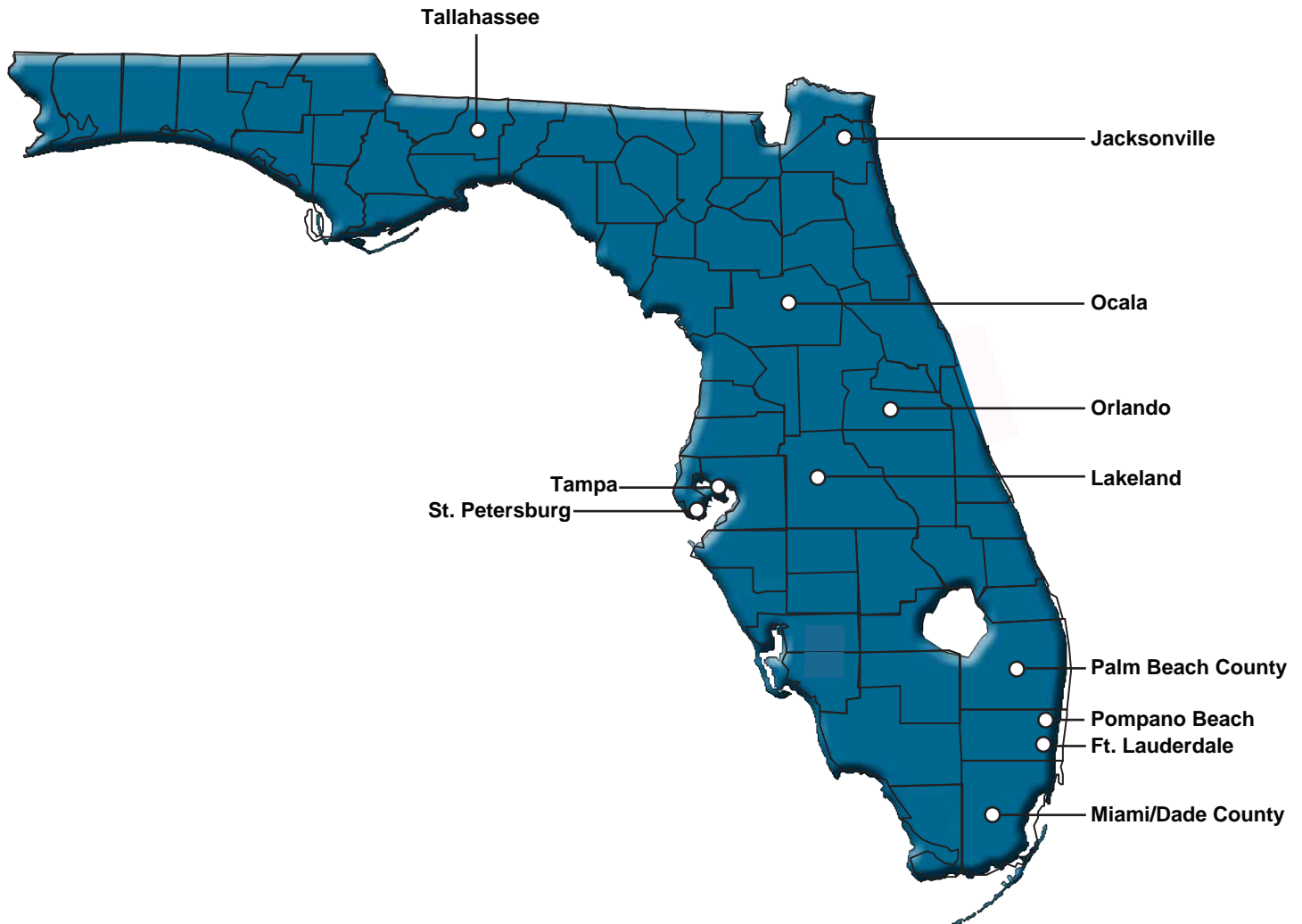
ADDITIONAL INFORMATION:

- Under this program the credit is based on the creation of new jobs; there is no ongoing obligation for the state to provide credits in the future. Job creation is measured over a 12-month period, and any change to the program could be crafted to allow any eligible business to receive credits for jobs created during its current 12-month measurement period.
- 46 percent (\$10.1 million) of the credits approved under this program have gone to hotel projects, and 2 companies—Universal City Development Partners, Ltd., and UCF Hotel Venture—have received 80 percent of those credits.
- Retail or distribution projects have received \$6.2 million in credits, and a handful of large businesses—Wal-Mart, Home Depot, Winn Dixie, Publix, Target, Lowes, and IKEA—account for \$5.6 million.
- Mail order fulfillment centers have received credits worth \$2.5 million.
- Auto dealers have received \$1 million in credits.
- Credits have been received by projects located in 11 Urban High Crime Areas, but 91 percent of credits have gone to 4 areas, namely, Orlando (48 percent), Miami-Dade (20 percent), Palm Beach (13 percent), and Jacksonville (11 percent).

- 76 percent of credits approved have gone to businesses that serve a predominantly local or regional market (retail and auto dealers) or could not easily locate elsewhere (hotels).

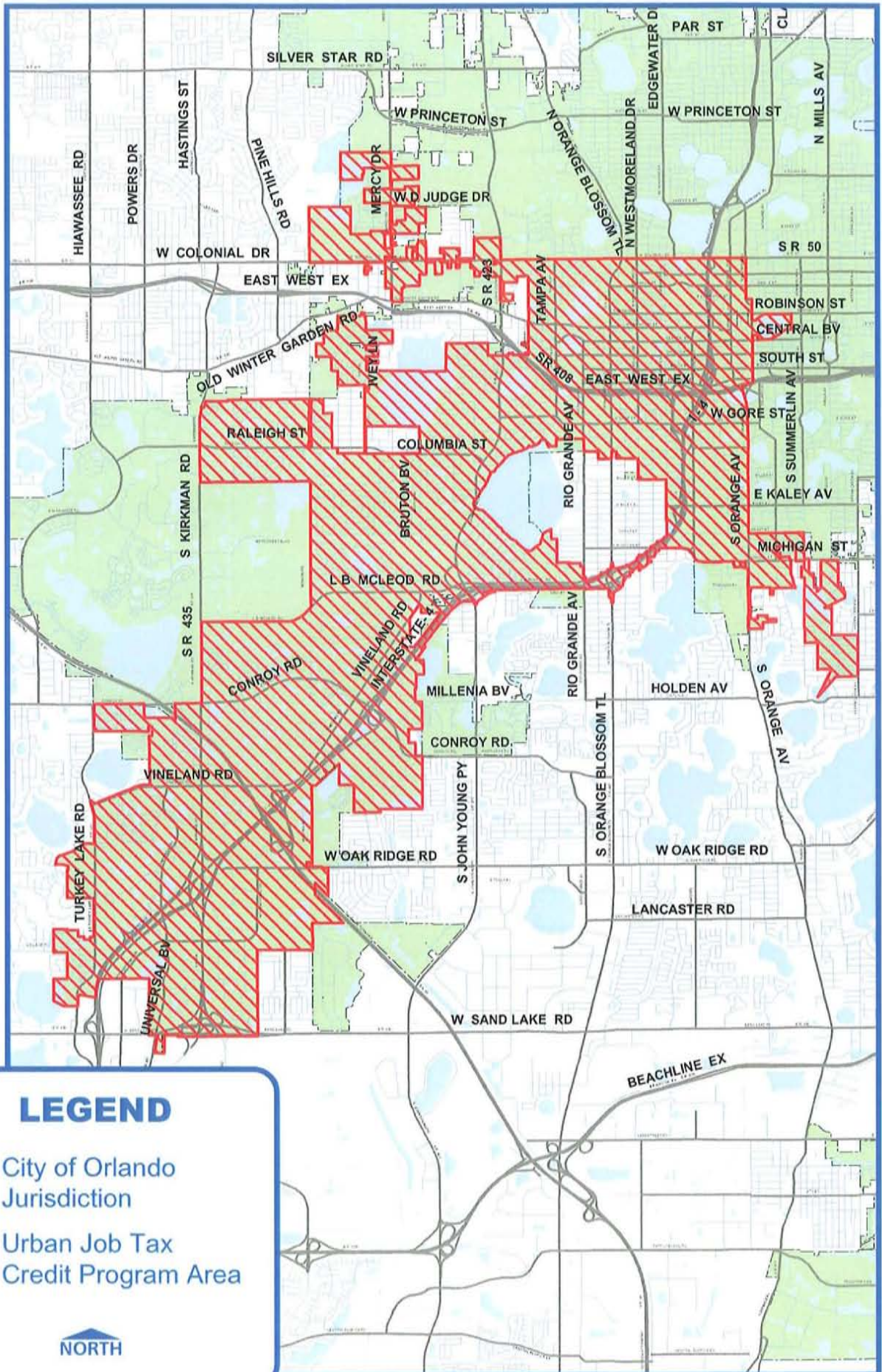
FLORIDA URBAN JOB TAX CREDIT PROGRAM

Effective January 2013



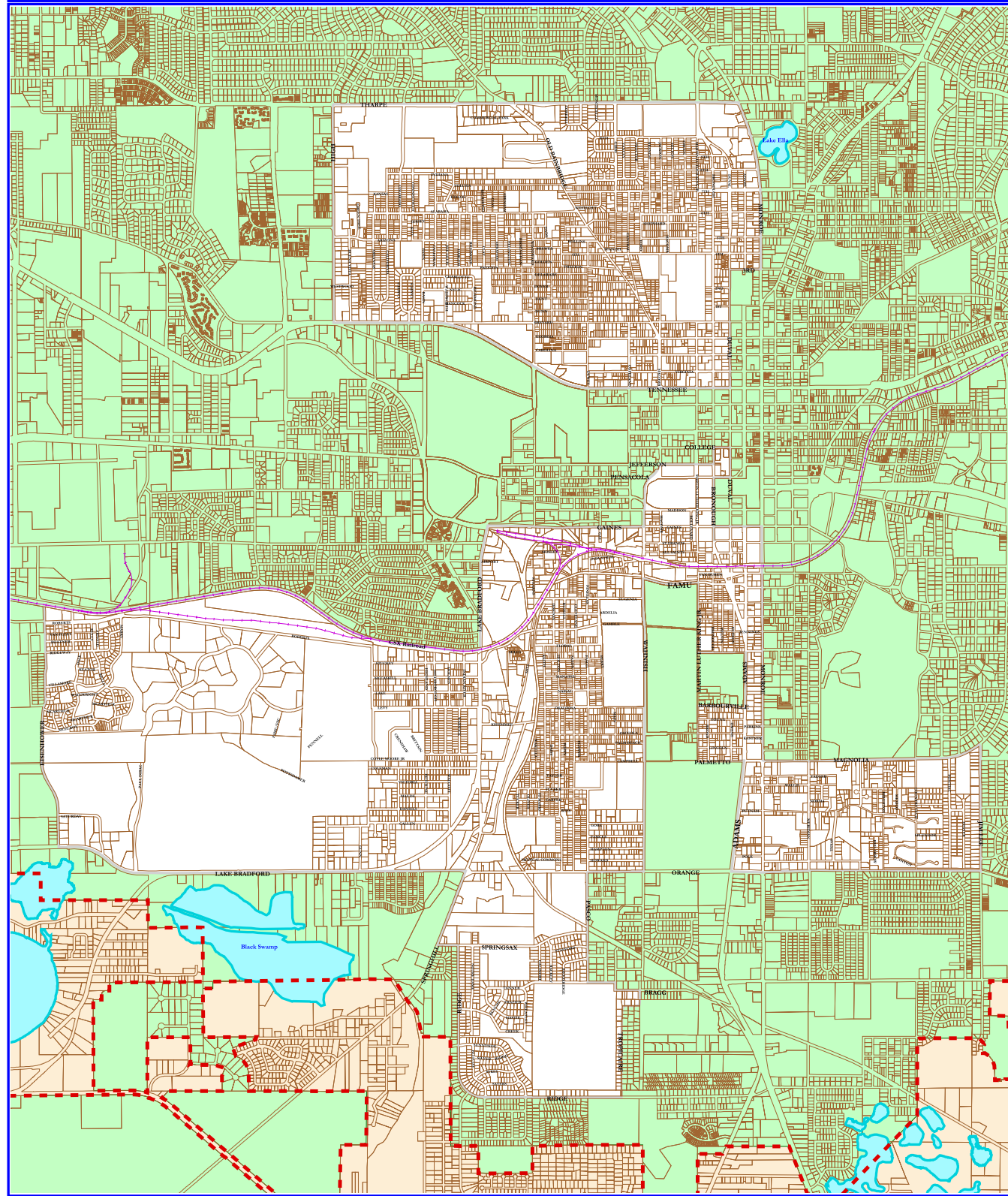
**Florida Department of Economic Opportunity
Division of Community Development
107 East Madison Street; MSC 160
Tallahassee, Florida 32399**








Urban Job Tax Credit Program Area

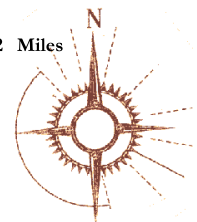


City of Tallahassee

Urban Job Tax Credit Program Area



-  City Limits
-  Lakes
-  Railroad
-  Parcels
-  UJTCP Area
-  Tallahassee
-  Leon County



RURAL JOB TAX CREDIT

Sections 212.098 and 220.1895, F.S.

INCENTIVE:

- Provides a credit of \$1,000 to \$1,500 per qualified job against either Sales Tax or Corporate Income Tax for creating new jobs in rural counties.

PURPOSE:

- To encourage meaningful employment opportunities that will improve the quality of life of those employed and to encourage economic expansion of new and existing businesses in rural areas of Florida.²

QUALIFYING REQUIREMENTS:

- A “Qualified Rural Area” is any area that is:
 - Within a Rural Area of Critical Economic concern;
 - A county with a population of fewer than 75,000; or
 - A county with a population of 125,000 or fewer that is contiguous to a county with a population of fewer than 75,000.
- Eligible businesses include sole proprietorships, firms, partnerships, and corporations predominantly engaged in:
 - Agriculture, forestry and fishing
 - Manufacturing
 - Public warehousing and storage
 - Hotels and other lodging places
 - Motion picture production and allied services
 - Public golf courses
 - Amusement parks
 - Targeted industries eligible for the targeted industry business tax refund
 - Call centers or similar customer service operations that service a multistate or international market
- A qualified employee must work for an eligible business at least 36 hours per week for at least 3 months.
- A new business with at least 10 employees is eligible for tax credits.
- An existing business with fewer than 50 employees must increase employment by at least 20 percent; and existing business with more than 50 employees must add at least 10 employees.

² *State of Florida Job Creation Plan*, pg. 36.

- For existing businesses, the number of qualified employees required for the credit is measured against the number of qualified employees the business had one year prior to application for the credit.
- A new or existing business will receive an addition \$500 credit for any qualified employee who is a welfare transition program participant.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity must approve all applications for this credit.
- The maximum credit amount available to any one business in a single year is \$500,000.
- The maximum credit amount that may be approved during any calendar year is \$5 million.

SIGNIFICANT HISTORY:

- Created in 1997.
- In 2001 qualified target industry businesses and motion picture production and allied services were added to the list of eligible businesses, and total tax credits available to a business in any one calendar year were limited to \$500,000.

FISCAL IMPACT:

- 32 rural counties, 3 cities, and one rural area qualify for the program.
- \$0.2 m in credits were approved in 2012.
- \$4.5 m in credits have been approved since the program's inception.

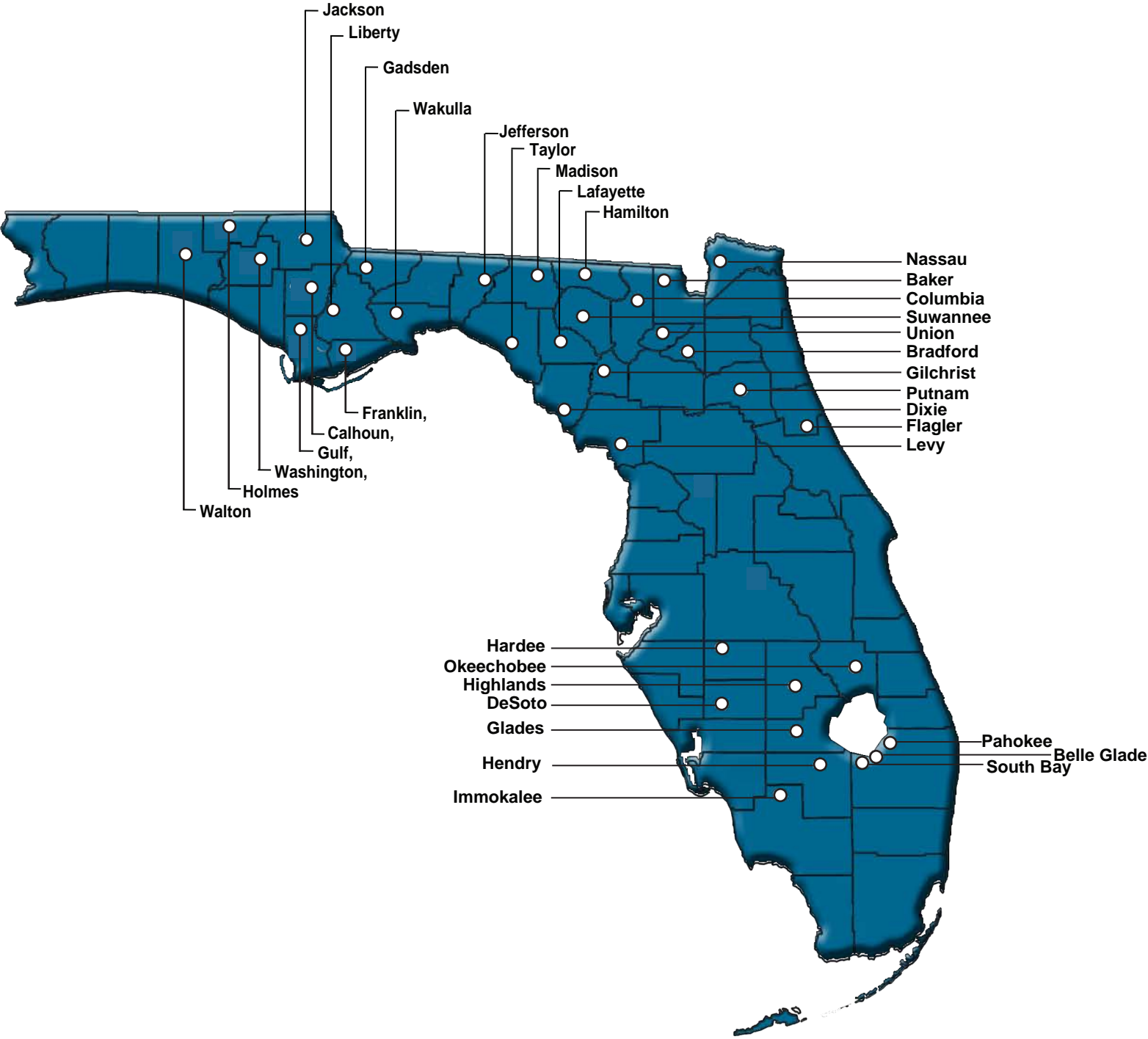
ADDITIONAL INFORMATION:

- Under this program the credit is based on the creation of new jobs; there is no ongoing obligation for the state to provide credits in the future. Job creation is measured over a 12 month period, and any change to the program could be crafted to allow any eligible business to receive credits for jobs created during its current 12-month measurement period.
- 64 applicants, representing 4,714 jobs, have been funded by this program since its inception.
- The largest single industry by number of projects is hospitality, with 24 projects and 915 jobs.
- The greatest number of credited jobs—1,490—was created in distribution centers for major retailers.
- Other industries that have received credits under this program are:
 - Food processing (980 jobs),
 - Manufacturing (420 jobs),

- Transportation and related services (332 jobs),
- Construction and construction materials (271 jobs),
- Business services (256 jobs), and
- Real estate development (31 jobs).
- Projects located in 20 counties have received credits under this program.

FLORIDA RURAL JOB TAX CREDIT PROGRAM

Effective January 2013



**Florida Department of Economic Opportunity
Division of Community Development
107 East Madison Street; MSC 160
Tallahassee, Florida 32399**

FLORIDA BROWNFIELDS REDEVELOPMENT ACT

Sections 220.1845, 212.08(5)(o), 288.107, and 376.77-376.85, F.S.

INCENTIVE:

- Florida’s Brownfields Redevelopment Program offers 3 incentives for cleaning up and developing brownfield areas.
- **Voluntary Cleanup Tax Credits** are transferable corporate income tax credits for 50% of the cost of site rehabilitation, with an additional 25% credit when cleanup is complete. These credits are available to projects that are executed under a Brownfield Site Rehabilitation agreement with DEP, and are limited to \$500,000 per project per year and \$5 million annually.
- **Building Materials Sales Tax Refunds** are available in brownfield areas for construction of housing projects that set aside at least 20% of the units for low-income and moderate income persons, or mixed-use projects that set aside at least 20% of the square footage for housing reserved for low-income and moderate-income persons.
- **Brownfield Redevelopment Bonus Refund**, a tax refund of up to \$2,500 for each new job created by a pre-approved business in a brownfield area. The business must create at least 10 new jobs and satisfy other criteria, and the total amount of money available for refunds for a given year is subject to appropriation.

PURPOSE:

- To encourage cleanup and development of sites that are “abandoned, idled, or underused properties where expansion or redevelopment is complicated by actual or perceived environmental contamination.”³
- The program provides incentives to rehabilitate contaminated sites, and develop “brownfield areas” which are contiguous areas of one or more brownfield sites, **some of which may not be contaminated**. A brownfield site is real property, the expansion, redevelopment, or reuse of which may be complicated by actual **or perceived** environmental contamination. There are no objective criteria for designating brownfield sites or brownfield areas.

³ Office of Program Policy Analysis and Government Accountability Report No. 11-15, “Over 600 Brownfield Acres Cleaned Up; Businesses Tax Advantage of Program Incentives,” p. 1.

QUALIFYING REQUIREMENTS:

- A local government may designate a brownfield area by resolution.
- Voluntary Cleanup Tax Credits are 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation in the previous year. An additional 25 percent of total cleanup costs is available in the final year of cleanup. This credit is also available for cleanup of a drycleaning-solvent contaminated site.
- Building materials sales tax refunds are available for housing projects and mixed use projects in brownfield areas if at least 20 percent of the project is set aside for low-income and moderate-income persons.
- Brownfield Redevelopment Bonus Refund, a tax refund of up to \$2,500 for each new job created by a pre-approved business in a brownfield area, is limited to a qualified target industry business, or a business that provides benefits to its employees and that can demonstrate a fixed capital investment of at least \$2 million in mixed-use business activities or at least \$500,000 in brownfield areas that do not require site cleanup. At least 10 new full-time permanent jobs must be created, and the actual amount of the refund is 20 percent of the average annual wage for the jobs created.

APPROVAL / OVERSIGHT / LIMITATIONS:

- Voluntary Cleanup Tax Credits require a Site Rehabilitation Agreement between the responsible party and either the Department of Environmental Protection (DEP) or a county with authorized program authority and DEP must authorize the credits.
- Voluntary Cleanup Tax Credits for any project are limited to \$500,000 per year, and the total amount of tax credits that may be granted under this program is limited to \$5 million annually. As of June 30, 2012, there was a backlog for unissued credits of \$13.6 million.
- The Department of Revenue also oversees these tax credits and building materials sales tax refunds through its normal auditing procedures.
- Brownfield Redevelopment Bonus Refunds require a recommendation by resolution of the governing board of the county or municipality that certain types of businesses be approved by the Department of Economic Opportunity.
- The total amount of bonus refunds approved in any fiscal year is limited by the amount appropriated to the Economic Development Incentives Account for this purpose.

SIGNIFICANT HISTORY:

- Created in 1997 as a voluntary program in which a local government may designate a brownfield area by resolution.

- In 2000 additional types of businesses were made eligible for the Brownfield Redevelopment Bonus Refund, and in 2009 the minimum investment required to qualify for the bonus refund was reduced for investments in brownfield areas that do not require site cleanup.
- In 2011 the annual authorization for the Voluntary Cleanup Tax Credit was increased from \$2 million to \$5 million.

FISCAL IMPACT:

- As of June 30, 2012, brownfield areas have been designated in 43 counties. There are 312 designated areas covering 226,948 acres.
- The extent of property subject to cleanup is much smaller--167 brownfield site rehabilitation agreements have been executed covering 3,642 acres. This equals 1.6% of total brownfield areas.
- Rehabilitation has been completed on 54 sites, totaling 812 acres, or 22% of the area covered by rehabilitation agreements.
- Voluntary Cleanup Tax Credits--\$5 million annually, \$20.5 million credits issued since program began through FY 2011-12. As of June 30, 2012, there was a backlog for unissued credits of \$13.6 million.
- Building Materials Sales Tax Refunds— \$1.2 m in FY 2011-12, \$7.0 m since FY 2005-06.
- Brownfield Redevelopment Bonus Refund--\$8.0 m through FY 2011-12.

ADDITIONAL INFORMATION:

- Maps of all brownfield sites and areas can be viewed on the DEP website: <http://ca.dep.state.fl.us/mapdirect/?focus=brnfls>
- Some local governments have designated brownfield areas that are far larger than actual brownfield sites; others have limited the brownfield area designations.
- There are advantages to expansive brownfield areas because it is easier to initiate a site rehabilitation agreement for voluntary cleanup in a designated brownfield area.
- The Legislature could limit Brownfield Redevelopment Bonus Refunds and building materials sales tax refunds to actual brownfield sites and locations within a limited distance of these sites.
- The attached maps show where brownfield areas are located in the state and details of brownfield areas and sites in parts of Miami-Dade County and the cities of Orlando and Tampa.

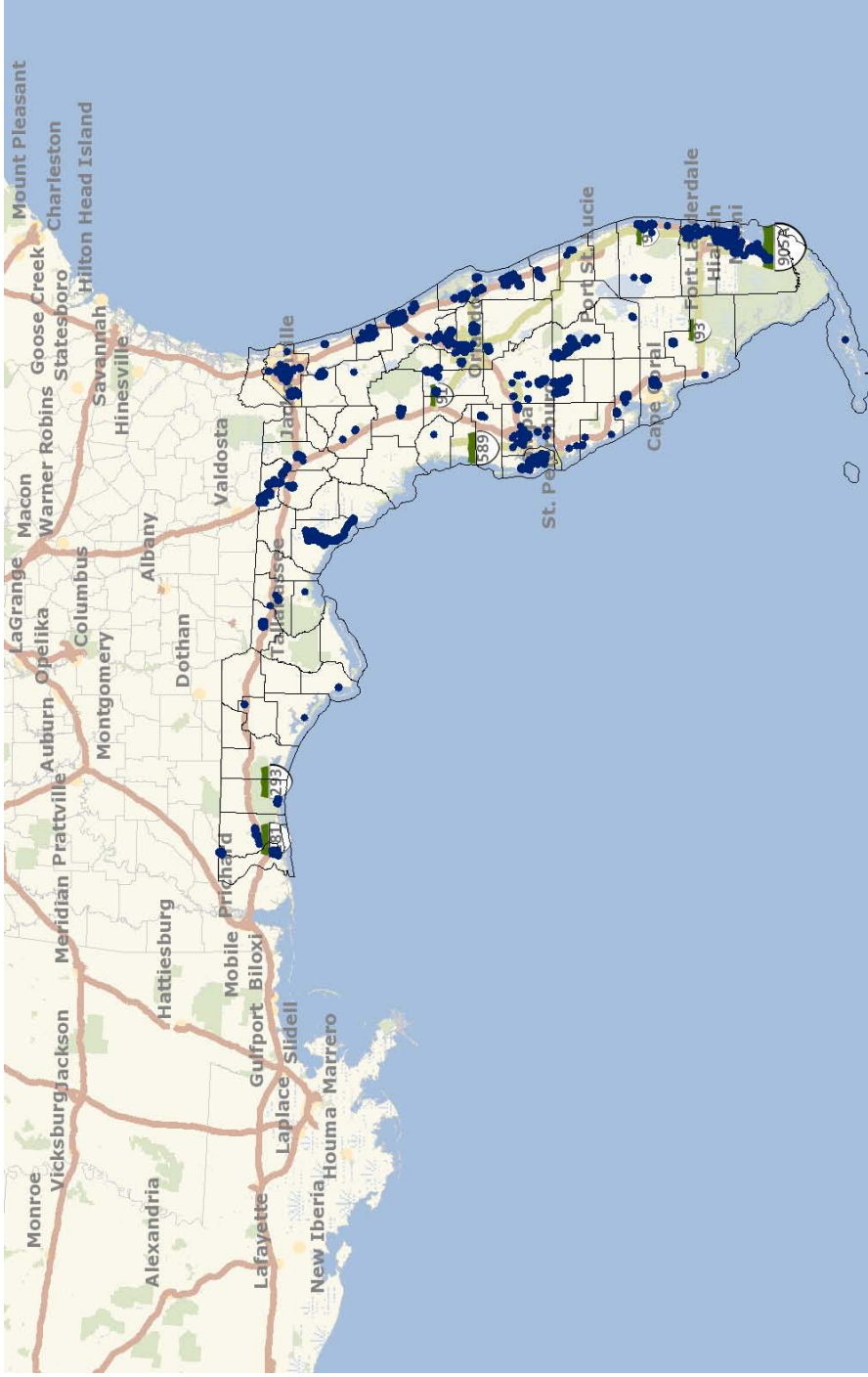
- 42 projects have been **approved** for Brownfield Redevelopment Bonus incentive payments worth \$12.8 million (\$1 million was for a project that was subsequently terminated).⁴
- 15 projects have **received** Brownfield Redevelopment Bonus incentive payments of \$2.2 million.
- The single largest business type to receive bonus incentives is retail, with 16 projects. Other recipients include manufacturing (10 projects), wholesale distributors (4 projects), restaurants (3 projects), hotels and call centers (2 projects each), and recycling and smelting (1 project each).

⁴ Department of Economic Opportunity Economic Development Incentives Portal, Report Generated on 03/03/13

Map Direct: Brownfields



32°53'37.6118", -93°32'23.6683"



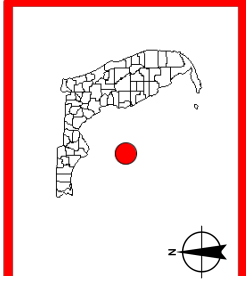
33°2'40.4608", -77°8'2.1555"



22°15'30.2177", -92°09'18.8977"



22°23'43.5616", -77°46'18.1223"



Scale 1:8,277,092

Satellite Photo

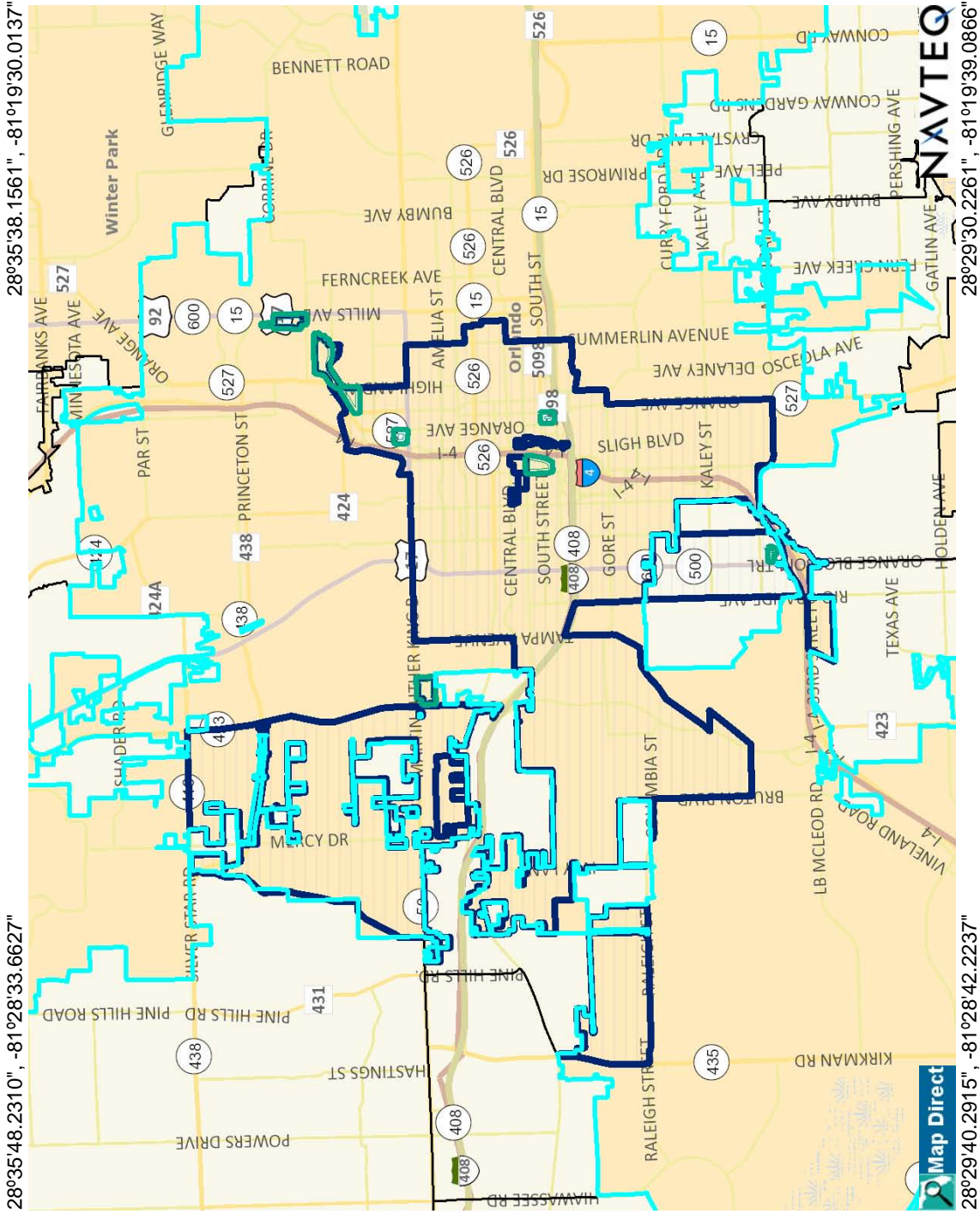
Counties

Brownfield Areas



Florida Department of Environmental Protection Disclaimer: This map created in Map Direct on Mon, 4 Mar 2013 14:32:39 UTC is intended for display purposes only. It was created using data from different sources collected at different scales, with different levels of accuracy, or for different purposes. The road data is provided as a service to the user and is not intended for a navigational purpose, satisfactory quality and non-infringement. YOU SHOULD THEREFORE VERIFY ANY INFORMATION OBTAINED FROM THIS SITE BEFORE ACTING ON IT.

Map Direct: Brownfields



Scale 1:79,461

- Aerial Imagery 2004-2009
- TIGER 2010 Places
- Counties
- Aerial Imagery Flight Dates 2004-2009
- Brownfield Sites
- Brownfield Areas

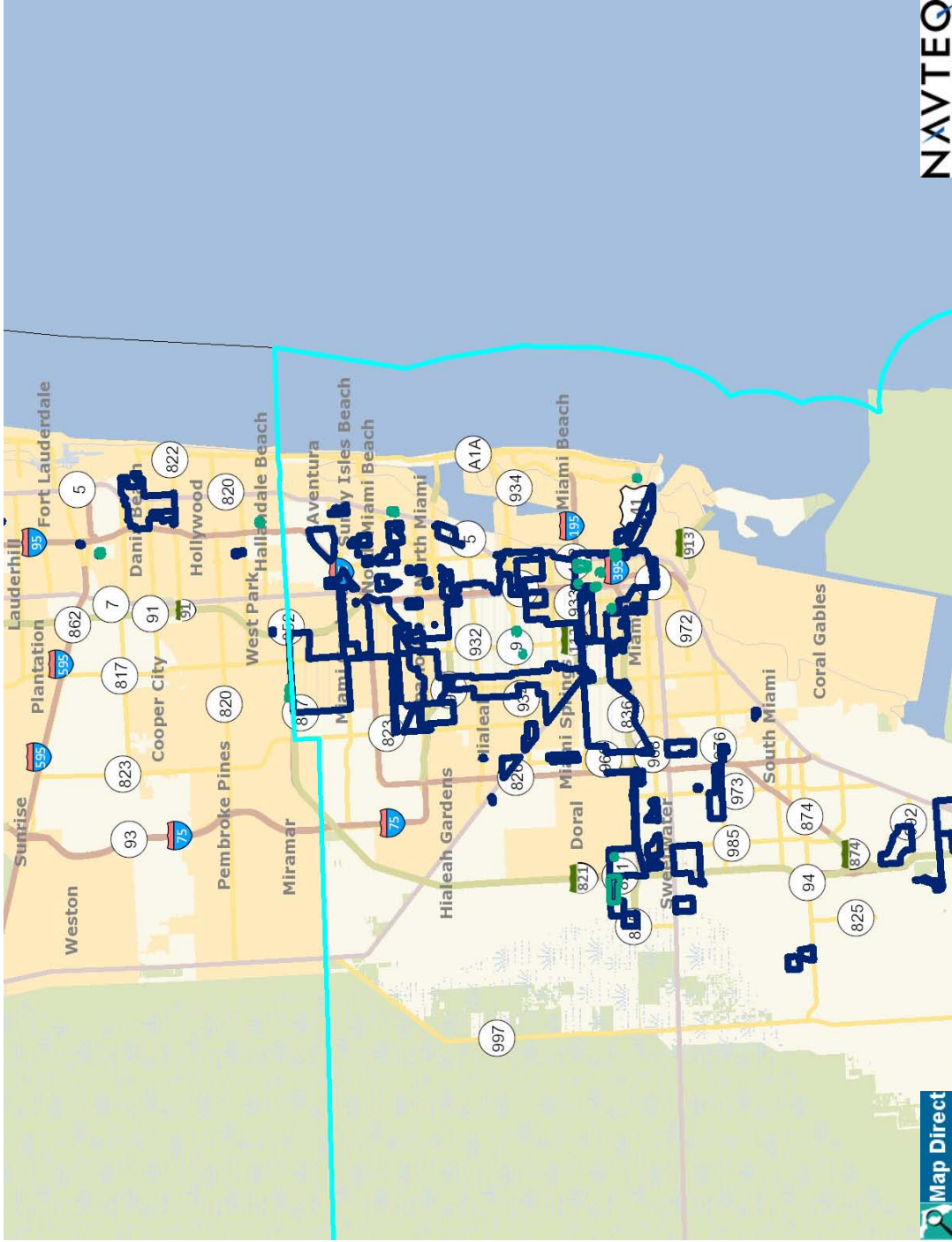
Florida Department of Environmental Protection Disclaimer: This map created in Map Direct on Mon, 4 Mar 2013 15:10:37 UTC is intended for display purposes only. It was created using data from different sources collected at different scales, with different levels of accuracy, and for differing purposes. The user assumes all responsibility for the accuracy of the information displayed on this map. Map Direct does not warrant the accuracy, reliability, or completeness of the information provided. Map Direct is not responsible for any errors or omissions, or for any consequences arising from the use of the information. YOU SHOULD THEREFORE VERIFY ANY INFORMATION OBTAINED FROM THIS SITE BEFORE ACTING ON IT.

Map Direct: Brownfields



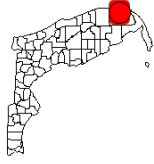
26°8'27.9585", -80°36'0.6570"

26°7'11.5231", -79°49'52.7811"



25°36'30.2758", -80°36'59.1585"

25°35'14.1766", -79°51'4.4944"



Scale 1:413,855

Aerial Imagery 2004-2009

Counties



Aerial Imagery Flight Dates
2004-2009

Brownfield Sites

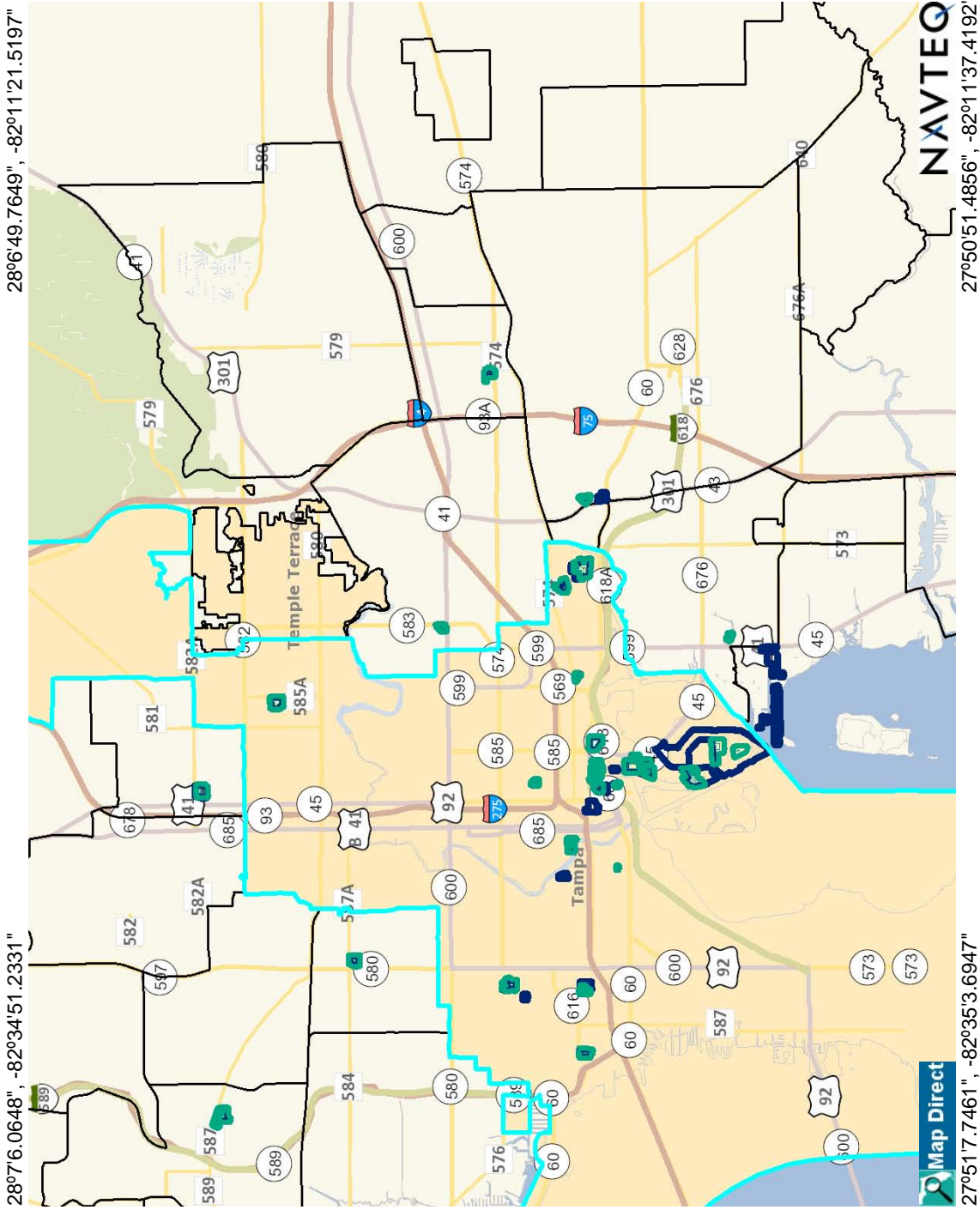


Brownfield Areas



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Map Direct: Brownfields

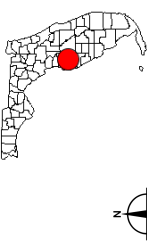


28°06'49.7649", -82°01'21.5197"

28°07'6.0648", -82°34'51.2331"

27°51'7.7461", -82°35'3.6947"

27°50'51.4856", -82°01'37.4192"



Scale 1:206,928

- Aerial Imagery 2004-2009
- TIGER 2010 Places
- Counties
- Aerial Imagery Flight Dates 2004-2009
- Brownfield Sites
- Brownfield Areas

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FLORIDA EMPLOYEES' SALARY INSURANCE PREMIUM TAX CREDIT

Section 624.509(5), F.S.

INCENTIVE:

- This statute provides a credit against the insurance premium tax equal to 15 percent of the amount paid by an insurer in salaries to employees located or based within Florida.

PURPOSE:

- To encourage insurance companies to locate employees in Florida.

QUALIFYING REQUIREMENTS:

- Employees of the insurance company, or employees of an affiliated group of corporations who perform insurance-related activities, must be located or based within Florida to qualify for the credit.

APPROVAL / OVERSIGHT / LIMITATIONS:

- "Salaries" does not include amounts paid as commissions, and "employees" does not include independent contractors or persons required to hold a license under the Florida Insurance Code (including insurance agents), except for adjusters, managing general agents, and service representatives.
- The sum of the salary credit and the credit for Florida corporate income taxes paid cannot exceed 65 percent of the premium tax due after deducting the taxes paid under s. 175.101 and s. 185.08, F.S., (Municipal Firefighters' Pension Fund and Municipal Police Retirement Fund Credits) and any assessments under s. 440.51, F.S.(Workers Compensation Assessments Credits).

SIGNIFICANT HISTORY:

- In 1949, the Legislature provided an insurance premium tax exemption for insurers that maintained their home offices in Florida.
- In 1953 it reduced premium taxes of a foreign insurance company incorporated under the laws of another state or foreign country, if the company owned and substantially occupied any building in the state as a regional home office.

- In 1985, the U.S. Supreme Court ruled in *Metropolitan Life Insurance Company v. Ward* that a domestic preference provision in Alabama's insurance tax law similar to the preference provision in Florida at the time violated the Equal Protection Clause.
- Florida and other states looked for ways to provide tax breaks to their domestic insurance companies that would pass constitutional muster, and in 1987 the Florida Legislature responded by repealing its own domestic preference provision and replacing it with a Florida Employees' Salary Credit.
- Chapter 87- 99, L.O.F, provided a credit against the net insurance premium tax equal to 10 percent of the amount paid by an insurer in salaries to employees located or based within Florida.
- The salary credit was increased to 15 percent by ch. 88-206, L.O.F, which also increased the amount of credit granted for corporate income taxes and Florida employees' salaries.

FISCAL IMPACT:

- In 2011, \$219.8 m in Florida employees' salary credit was taken against the insurance premium tax.

ADDITIONAL INFORMATION:

- Since 2006, the actual salary credits **taken** have ranged from \$202 million in 2006 to \$234.4 million in 2010.
- Total salary credits **available** have ranged from \$312.3 million in 2007 to \$399.1 million in 2008. Some credits are unused because the total amount of combined salary and corporate income tax credits that can be taken is capped at 65 percent of premium tax due after deductions.
- According to research done by NCSL, Arkansas is the only other state that provides an across-the-board salary credit against insurance premium tax. Several states allow premium tax credits for creating new jobs under programs meant to encourage job creation.
- Citizens Insurance is subject to the insurance premium tax laws, including the credit for employees' salaries. This credit is available to any insurance company with employees located in Florida, up to 65 percent of its net premium tax.

FLORIDA ENTERPRISE ZONE PROGRAM

PURPOSE:

- 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.

INCENTIVES: The Florida Enterprise Zone Program includes a variety of tax incentives available to qualified businesses.

- **Enterprise Zone Jobs Tax Credit – Sales and Use Tax (s. 212.096, F.S.) or Corporate Income Tax (s. 220.181, F.S.)**
Businesses located in an enterprise zone can receive sales tax or corporate income tax credits for wages paid to new employees who have been employed for at least three months and are residents of a Florida enterprise zone. The amount of the credit is limited to 20% of monthly wages, or 30% of monthly wages if at least 20 percent of all full-time employees are enterprise zone residents. For rural enterprise zones, the credit is limited to 30% of monthly wages, or 45% of monthly wages if at least 20 percent of all full-time employees are enterprise zone residents. The qualified business may receive the credit for up to 24 months.
- **Enterprise Zone Property Tax Credit - Corporate Income Tax (s. 220.182, F.S.)**
New or expanded businesses located in an enterprise zone can receive corporate income tax credits for property taxes paid in Florida. To qualify, a business must hire 5 or more additional full-time employees. The amount of the credit is limited to \$25,000 per business, or \$50,000 if at least 20 percent of full-time employees are enterprise zone residents. The qualified business may receive the credit for up to 5 years.
- **Sales Tax Refund for Building Materials Used in an Enterprise Zone (s. 212.08(5)(g), F.S.)**
A refund is available for sales taxes paid on the purchase of building materials used to rehabilitate real property located in an enterprise zone. The amount of the refund is limited to \$5,000 per parcel of property, or \$10,000 if at least 20 percent of full-time employees are enterprise zone residents. The refund is limited to one per parcel of property.

- **Sales Tax Refund for Business Machinery and Equipment Used in an Enterprise Zone (s. 212.08(5)(h), F.S.)**

A refund is available for sales taxes paid on the purchase of certain business property, (e.g., tangible personal property such as office equipment, warehouse equipment, and some industrial machinery and equipment). The minimum purchase price of equipment is \$5,000 per unit. The amount of the refund is limited to \$5,000, or \$10,000 if at least 20 percent of full-time employees are enterprise zone residents.

- **Sales Tax Exemption for Electrical Energy Used in an Enterprise Zone (s.212.08(15), F.S.)**

Qualified businesses located in an enterprise zone are eligible for a sales tax exemption on their electricity purchases if the municipality in which they are located has enacted an ordinance providing an exemption from municipal utility tax. The sales tax exemption is 50 percent or 100 percent if at least 20 percent of full-time employees are enterprise zone residents. The qualified business may receive the exemption for up to 5 years.

QUALIFYING REQUIREMENTS:

- 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 governed body must determine that an area:
 - Has pervasive 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.
- An enterprise zone is subject to the following mileage limitations:
 - Up to 20 square miles for a rural enterprise zone or for communities with a population of 150,000 or more.
 - Up to 10 square miles for communities with a population between 50,000 and 150,000.
 - Up to 5 square miles for communities with a population between 20,000 and 50,000.
 - Up to 3 square miles for communities with a population less than 20,000.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity is responsible for approving applications for enterprise zones, and also approves changes to the boundaries of an enterprise zone. 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.

SIGNIFICANT HISTORY:

- Created in 1982 and revised several times since.
- There are currently 65 enterprise zones.
- The Florida Enterprise Zone Program is repealed December 31, 2015.

FISCAL IMPACT:

Enterprise zone incentives (\$ claimed)

Category	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Jobs Credit - Sales Tax	6,777,250	6,087,843	5,732,605	5,227,245	5,683,252	757,739	865,560
Jobs Credit – Corporate Tax	4,253,621	5,919,236	5,507,311	5,072,555	4,348,031	4,956,598	4,455,624
Property Tax Credits	1,267,999	2,291,961	2,184,036	1,910,708	1,384,668	1,994,562	1,022,199
Building Materials Refunds	7,415,711	18,855,129	25,665,025	30,994,860	54,012,915	13,590,376	2,462,136
Business Equipment Refunds	2,940,864	1,771,396	1,269,955	1,139,066	1,035,562	679,440	1,228,479
Electric Energy Exemption	778,090	793,179	606	1,007,007	1,138,054	972,185	900,476
Total all zones	23,433,535	35,718,744	40,359,538	45,351,441	67,602,482	22,950,900	10,934,474

ADDITIONAL INFORMATION:

OPPAGA Report No. 11-01 (January 2011)

- Other states’ enterprise zone programs are similar to Florida’s.
- Research in Florida and other states has found mixed results regarding program effectiveness.
- Low program participation limited progress towards meeting major legislative goals.
- EZ coordinators rated program performance and incentives as moderately effective.
- EZ coordinators suggested program improvements (e.g., reducing incentive thresholds).

The Legislature could consider several options to modify the Enterprise Zone Program:

- Modify program eligibility requirements to encourage participation.
- Target program incentives to encourage job creation.
- Implement a one-year program moratorium.
- Abolish the program.
- Allow the program to sunset on December 31, 2015.

A copy of the OPPAGA report can be found here:

www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf

Florida Enterprise Zone Program Annual Reports

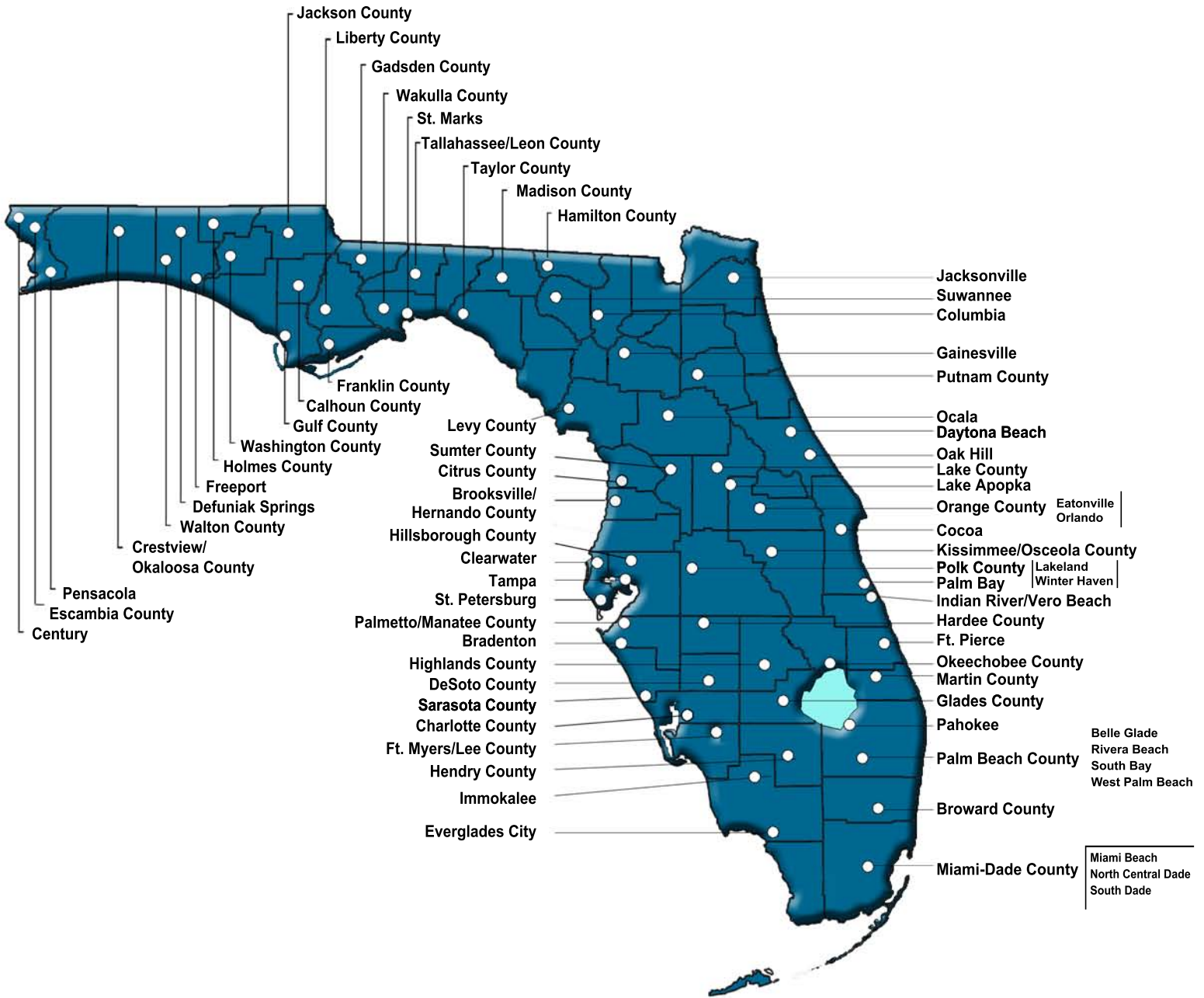
By March 1st of each year, the Department of Economic Opportunity submits a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Each year's annual report is based on information provided by the local Enterprise Zone Development Agencies and the Florida Department of Revenue. The purpose of the reports is to examine the impact of the program and monitor the use of state and local incentives.

Summary: FY 05-06 to FY 11-12

Category	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	Total
Businesses Moved into or Created	3,324	4,976	2,719	3,104	7,559	4,103	4,500	30,285
Jobs Created	12,490	11,456	9,600	9,073	6,784	11,559	11,602	72,564
State Incentives Claimed	\$23.43m	\$35.72m	\$40.36m	\$45.35m	\$67.60m	\$22.95m	\$10.93m	\$246.34m
Number of Zones	55	56	56	56	59	59	63	

FLORIDA ENTERPRISE ZONES

EFFECTIVE JANUARY 1, 2013



Florida Department of Economic Opportunity
 Division of Community Development
 107 East Madison Street; MSC 160
 Tallahassee, Florida 32399
www.floridaenterprisezone.com

ENTERTAINMENT INDUSTRY FINANCIAL INCENTIVE PROGRAM

Sections 288.1254, F.S.

INCENTIVE:

- Transferable Corporate Income Tax credits and/or Sales and Use Tax credits are provided to companies that produce films, commercials, music videos, television shows, video games, etc. within Florida.

PURPOSE:

- To encourage the use of Florida as a site for filming, for the digital production of films, and to sustain the workforce and infrastructure for film, digital media, and entertainment production.

QUALIFYING REQUIREMENTS:

- Productions that qualify include motion pictures, television programs, digital effects and animation sequences, commercials, music videos, industrial/educational films, telenovelas, game shows, and digital media projects (video games, animations, interactive websites, etc.)
- 60 percent of the production cast and certain crew positions must be filled by Florida residents (75 percent for digital media projects).
- The project cannot include obscene content.
- The credit is calculated based upon qualifying expenditures. Qualifying expenditures include:
 - Goods and services, purchased or leased from a supplier in Florida, and
 - Salary or wage payments to Florida residents (\$400,000 per person limit).

Entertainment Industry Financial Incentive Program			
FY 2010/11 – 2015/16	\$296 million		
Queue	General Production	Commercials and Music Videos	Independent and Emerging Media
Credit Allocation	94% \$284 million	3% \$8.9 million	3% \$8.9 million
Required Expenses	\$625,000	\$500,000	\$100,000
Credit Calculation	20% of Expenses	20% of Expenses	20% of Expenses
Bonus Credits	15% Film Students 5% Qual. Prod. Facility 5% Off-season 5% Underutilized region 5% Family-friendly	None	5% family-friendly 5% Off-Season
Maximum Credit	30% \$8 million per project	20% \$500,000 per project	30% \$125,000 per project
Internal Allocation Limit	No greater than 45% of credits awarded after 4/1/2012 can go to high-impact television	None	None
Credit Carryforwards	5 years	5 years	5 years
Credit Transfers	Transferable	Transferable	Transferable

APPROVAL / OVERSIGHT / LIMITATIONS:

- Applicants must apply to DEO to determine if their project qualifies.
- DEO certifies credit amount after production is completed.
- DOR oversees credit use through DOR's normal auditing procedures.
- Anecdotal evidence suggests that credits are sold at 85-98% of their value.

SIGNIFICANT HISTORY:

- 2003 – Florida created the Entertainment Industry Financial Incentive Program. Initially, the program was structured as a reimbursement program, rather than a tax credit program. Qualifying projects could earn payments based on expenses.
- 2005 – The program was expanded to cover more types of projects and to remove time restraints (prior to 2005, certain projects had to have minimum airtimes).
- 2007 – The program was substantially reworded and amended to bring it up to date to industry practices.
- 2009 – The program was amended to increase the queue allocation for independent Florida filmmakers and to allow excess amounts to flow to digital media projects.
- 2010 – The program was substantially rewritten and changed into a tax credit program. Tax credits were allocated for FY 2010-11 through FY 2014-15, totaling \$242 million.
- 2011 – The program was amended to limit the allocation of credits to television series, provide additional credits for certain activities, and permit limited transfers of credits. An additional \$12 million of credit was added for FYs 2012-13, 2013-14, and 2014-15, raising the total credit under the program to \$254 million.
- 2012 – The program was amended to add an additional year of allocations of \$42 million (FY 2015-16), and to delay the television series limitations that were passed in 2011.

FISCAL IMPACT:

FISCAL YEAR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
ANNUAL	\$53.5m	\$74.5m	\$42m	\$42m	\$42m	\$42m
TOTAL	\$296 million					

TOP 5 CREDIT ALLOCATION CATEGORIES AND PERCENT OF TOTAL CREDIT ALLOCATIONS		
HIGH-IMPACT TELEVISION SERIES	\$118.6m	40.6%
VIDEO GAMES	\$56.8m	19.4%
MOTION PICTURES	\$47.5m	16.3%
TELENOVELA TELEVISION SERIES	\$26.4m	9.0%
OTHER (INCLUDES 13 CATEGORIES, EACH CLAIMING LESS THAN 3.4% OF TOTAL CREDIT)	\$43.0m	14.7%

QUALIFIED PRODUCTION COMPANY SALES TAX EXEMPTION

Sections 288.1258, 212.031(1)(a)9. and 212.08(5)(f), F.S.

INCENTIVES:

- A purchase or lease of motion picture and sound recording equipment is exempt from sales tax. The exemption may include a building and its structural components when they are closely related to the motion picture or sound recording equipment.
- A lease of property that is used as an integral part of a motion picture is exempt from the sales tax on commercial rentals.

PURPOSE:

- To encourage commercial filming and recording activities in Florida

QUALIFYING REQUIREMENTS:

- The exemption is for companies that produce motion pictures, television programs, commercials, music videos and sound recordings.

APPROVAL / OVERSIGHT / LIMITATIONS:

- Production companies apply to DOR for a certificate of exemption.
- DEO ultimately approves the applicants.

SIGNIFICANT HISTORY:

- 1983 – Created sales tax exemption, which would be obtained by a refund through the Department of Revenue.
- 2000 – Restructured the program to create oversight of production companies by the Office of Film and Entertainment.

FISCAL IMPACT:

- \$30.1 million

INTERCOMPANY TRANSACTIONS

1. A Corporation's State Income Tax Liability

a. Tax Rate

Forty-seven states and the District of Columbia impose a corporate income tax. The rates vary between 1 and 12 percent. The states that do not impose a tax are Nevada, South Dakota, Washington, and Wyoming. Texas and Ohio could be said not to have income taxes, but they do have similar tax burdens that are not measured on income.

b. Type of Income

Some states have a unique definition of "income." For instance, Delaware does not impose tax on income from intangible assets.

c. Consolidated Filing / Separate Return Filing

Many modern businesses are not made up of a single corporation doing business one state, but rather consist of many commonly-owned corporations doing business in many states. Some states permit separate filing by each individual corporation. However, as of 2010, twenty-two states required all related corporations to join in a single return (often referred to as a "combined report"). These combined reporting states then determine what their share of the total "corporate family" income is through their apportionment formula.

All southeastern states are "separate return" states. Additionally, some states throughout the Midwest and Northeast remain separate return states.

Separate return states are especially susceptible to the techniques described below.

2. Use of Intercompany Transactions

a. Basics

When a business transaction crosses state lines, it has the potential to "shift" income from one state to the other. For example, if a business in Florida buys a product from a business in Alabama, the Alabama business will have an item of income, while the Florida company will have a business expense (less income).

Some businesses use this “shifting” feature of multi-state transactions to move income to a no-tax or lower-tax state. By creating a subsidiary in a no-tax or lower-tax state and having that subsidiary conduct business with related corporations, a business can “shift” income to the no-tax or lower-tax state.

b. Leases

i. Intangible Holding Companies

Intangible Holding Companies are probably the most well-known method for using intercompany transactions to lower taxes. The basic structure is to create a holding company in a state that either does not have a tax or does not tax income from intangible assets. The main business then transfers its intangible assets (usually a trademark) to the holding company. The holding company then charges its related companies in other states a fee for the use of the intangible asset in the other state. In paying for the use of the intangible, the companies that are located in states that impose taxes (in-state companies) are creating business expenses.

This technique was involved in the recent case reported in Florida.

ii. Real Estate Investment Trusts

Real Estate Investment Trusts use the same type of structure, but rather than lease payments for an intangible asset, the in-state companies pay rent for the use of realty. The rental payments are made to a Real Estate Investment Trust that then pays out dividends to a company located in a no-tax state. By doing this, the in-state companies create a rental expense.

This technique is not effective in Florida due to Florida’s sales tax on commercial rents.

c. Transfer Pricing Issues

Related companies can also be used to reduce income through the use of inflated pricing. When a company calculates its income from the sale of a product, the income generally is the sales price of the item minus all of the costs of producing it.

The purchaser of a product can insert a related company between itself and a supplier in an effort to inflate the price it pays for supplies. For instance, a Florida company purchasing supplies could have the supplier sell the product to a related company in a low-tax or no-tax state. The related company could then inflate the price of the product when selling it to the Florida company. By doing so, the Florida company reduces its income because of the higher cost of goods.

d. Loans

Related companies can be established in no-tax states to make loans. In paying the interest on the loan, the in-state company creates an interest deduction.

e. Management Fees

Related companies can be established to provide management services. In paying for the management services, the in-state company creates a regular business expense.

3. Methods to Impose Tax

a. Add-Back Statute

A legislative approach to address these techniques is to require the Florida company to disregard or “add-back” the business expense for the payment to the related subsidiary.

In 2009, the Senate Committee on Finance and Taxation considered and passed a bill that contained an add-back provision. It addressed payments to related companies for intangible assets, interest, and management fees.

b. Impose Tax on “Out-of-State” Company

i. Nexus

A state could attempt address these related-company issues by attempting to subject the no-tax state subsidiary to tax. The primary obstacle to overcome is the Commerce Clause requirements of the federal Constitution. The U.S. Supreme Court has interpreted the Commerce Clause to require that a company must have a sufficient presence within the taxing state to support taxation. The Court has not provided a lot of guidance on what presence is sufficient in the context of income taxes. Oftentimes, these related companies will not have employees or a location within the state.

ii. Litigation Has Mixed Results

States that have attempted to impose tax have had varying results:

Toys-R-Us.....Taxable. South Carolina (1993)
SYL, Inc.....Not Taxable. Maryland (1999)
Lane Bryant.....Not Taxable. New Jersey (2003)
Autozone.....Not Taxable. Louisiana (2004)
KFC.....Taxable. Iowa (2010)
Conagra Brands, Inc.....Not Taxable. West Virginia (2012)

c. Consolidated Reporting (“Combined Reporting”)

The approach taken by 22 states is to require all related companies to join in a single return. With this approach, all of the income of every related corporation is included; the state just uses its apportionment factor to determine the portion of the combined income that is subject to tax.

SELECTED SALES TAX EXEMPTIONS FOR INDUSTRIAL MACHINERY AND EQUIPMENT

Generally, the sale at retail of tangible personal property, including industrial machinery and equipment, is subject to sales tax. Currently, there are several sales tax exemptions for machinery and equipment available to eligible businesses under specified conditions. These exemptions generally apply to manufacturing, defense and space activities.

PURPOSE:

- To encourage manufacturing, defense, and space activities within Florida.

INCENTIVES:

- Industrial Machinery and Equipment for New and Expanding Businesses or for Spaceports (s. 212.08(5)(b), F.S.)
- Industrial Machinery and Equipment Used in Semiconductor, Defense or Space Technology Production (s. 212.08(5)(j), F.S.)
- Research and Development Costs (ss. 212.052 and 212.08(18), F.S.)
- Repair Parts, Materials and Labor Charges for Industrial Machinery and Equipment (s. 212.08(7)(xx), F.S.)

INDUSTRIAL MACHINERY AND EQUIPMENT FOR NEW AND EXPANDING BUSINESSES OR FOR SPACEPORTS

Section 212.08(5)(b), F.S.

INCENTIVE:

- Industrial machinery and equipment purchased for exclusive use by a **new** business in spaceport activities or for use in a new business that manufactures, processes, compounds, or produces for sales items of tangible personal property at a fixed location in this state are exempt from sales and use tax.
- Industrial machinery and equipment purchased for exclusive use by an **expanding** facility engaged in spaceport activities or used in an expanding manufacturing facility that manufactures, processes, compounds, or produces for sales items of tangible personal property at a fixed location in this state are exempt from sales and use tax if the items are used to increase the productive output of a facility by at least 5%.

PURPOSE:

- To encourage manufacturing and spaceport activities within Florida.

QUALIFYING REQUIREMENTS:

- To qualify, the business must be new or increase production at the facility by at least 5% over the previous 12 month period.
- “Industrial machinery and equipment” is defined as tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the **manufacturing, processing, compounding, or production** of tangible personal property for sale or is exclusively used in spaceport activities.
- This exemption does not apply to machinery and equipment purchased by electric utilities, communications companies, oil or gas exploration or production, publishing firms that do not export at least 50% of their finished product out of state, or hotels and restaurants.
- “Spaceport activities” means activities directed or sponsored by Space Florida on spaceport territory.

APPROVAL / OVERSIGHT / LIMITATIONS:

- To receive these exemptions, a qualifying business must apply to the Department of Revenue for a temporary tax exemption permit.

SIGNIFICANT HISTORY:

- Created in 1978 and amended several times since.
- When the exemption was enacted in 1978, it applied to sales tax in excess of \$100,000. This threshold was reduced to \$50,000 in 1996. In 1999, the exemption was extended to included machinery and equipment used for phosphate and other solid mineral severance. In 2006, the \$50,000 tax threshold for expanding manufacturing businesses was eliminated. In 2012, the productive output requirement for expanding businesses was lowered from 10% to 5%.

FISCAL IMPACT:

\$41.7m per state fiscal year

INDUSTRIAL MACHINERY AND EQUIPMENT USED IN SEMICONDUCTOR, DEFENSE OR SPACE TECHNOLOGY PRODUCTION

Section 212.08(5)(j), F.S.

INCENTIVE:

- Industrial machinery and equipment used in **semiconductor** facilities to manufacture, process, compound or produce semiconductor products for sale or for use by these facilities is exempt from sales and use tax.
- Industrial machinery and equipment used in **defense or space technology** facilities to *design*, manufacture, *assemble*, process, compound or produce defense or space technology products for sale or for use by these facilities is exempt from sales and use tax.

PURPOSE:

- To encourage the development of defense and space technology facilities within Florida.

QUALIFYING REQUIREMENTS:

- The facilities must be certified by the Department of Economic Opportunity and the certification is valid for 2 years. A business may renew the certification biennially.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity is responsible for processing applications and certifying businesses.

SIGNIFICANT HISTORY:

- Created in 2000 to provide a full exemption for industrial M&E used in semiconductor facilities and a 25% exemption for industrial M&E used in defense or space technology facilities. A business using the exemption was required to apply for certification each year.
- In 2006, the exemption for industrial M&E used in defense or space technology facilities was increased to 100% and the certification was extended to 2 years. The definition of “space technology products” was expanded to include space flight vehicles and components of space technology products. The exemption was also extended to include M&E used to “design” or “assemble” defense or space technology products.

FISCAL IMPACT:

\$4.5m per state fiscal year

RESEARCH AND DEVELOPMENT COSTS

Sections 212.052 and 212.08(18), F.S.

INCENTIVE:

- Tangible personal property manufactured, produced, compounded, processed or fabricated for use directly or solely in research or development, and machinery and equipment used predominately for research and development is exempt from sales and use tax.

PURPOSE:

- To encourage research and development activities within Florida.

QUALIFYING REQUIREMENTS:

- “Machinery and equipment” includes, but is not limited to, molds, dies, machine tooling, other appurtenances or accessories to machinery and equipment, testing and measuring equipment, test beds, computers, and software.
- Must use machinery and equipment for research and development purposes at least 50% of the time, however, there is no requirement that machinery and equipment have a depreciable life of 3 years or more.
- Purchasers must provide an affidavit to seller stating the machinery and equipment will be used for research and development.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Revenue oversees through its normal auditing procedures.

SIGNIFICANT HISTORY:

- Enacted in 2006.

FISCAL IMPACT:

\$46.8m per state fiscal year

REPAIR PARTS, MATERIALS AND LABOR CHARGES FOR INDUSTRIAL MACHINERY AND EQUIPMENT

Section 212.08(7)(xx), F.S.

INCENTIVE:

- Parts, materials and labor charges for the repair of industrial machinery and equipment are exempt from sales and use tax.

PURPOSE:

- To encourage manufacturing activities within Florida.

QUALIFYING REQUIREMENTS:

- The exemption is available to those industries classified under specified Standard Industrial Classification (SIC) Industry Major Group Numbers provided in statute. These classifications generally include mining, construction, and manufacturing industries.
- Purchasers must provide an exemption certificate to the seller stating that the repair parts, materials and labor charges will be used for the repair of machinery and equipment.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Revenue oversees through its normal auditing procedures.

SIGNIFICANT HISTORY:

- Enacted in 1999. This exemption was phased in over a 4-year period. Starting July 1, 1999, only 25% of the charges for repair parts and labor were exempt. The exemption increased by 25% on July 1 of each year until it reached 100% on July 1, 2002.

FISCAL IMPACT:

\$10.3m per state fiscal year

ENERGY ECONOMIC ZONE PILOT PROGRAM

Section 377.809, F.S.

PURPOSE:

- The Florida Energy Economic Zone Pilot Program was created in 2009 to help communities cultivate green economic development, encourage renewable electric energy generation, and promote product manufacturing that contributes to energy conservation and green jobs.

INCENTIVES: All incentives and benefits provided for enterprise zones are available to the energy economic zones. However, the total amount of incentives is limited to \$300,000 annually for each zone.

- **Enterprise Zone Jobs Tax Credit – Sales and Use Tax (s. 212.096, F.S.) or Corporate Income Tax (s. 220.181, F.S.)**
Businesses located in an enterprise zone can receive sales tax or corporate income tax credits for wages paid to new employees who have been employed for at least three months and are residents of a Florida enterprise zone. The amount of the credit is limited to 20% of monthly wages, or 30% of monthly wages if at least 20 percent of all full-time employees are enterprise zone residents. For rural enterprise zones, the credit is limited to 30% of monthly wages, or 45% of monthly wages if at least 20 percent of all full-time employees are enterprise zone residents. The qualified business may receive the credit for up to 24 months.
- **Enterprise Zone Property Tax Credit - Corporate Income Tax (s. 220.182, F.S.)**
New or expanded businesses located in an enterprise zone can receive corporate income tax credits for property taxes paid in Florida. To qualify, a business must hire 5 or more additional full-time employees. The amount of the credit is limited to \$25,000 per business, or \$50,000 if at least 20 percent of full-time employees are enterprise zone residents. The qualified business may receive the credit for up to 5 years.

- **Sales Tax Refund for Building Materials Used in an Enterprise Zone (s. 212.08(5)(g), F.S.)**

A refund is available for sales taxes paid on the purchase of building materials used to rehabilitate real property located in an enterprise zone. The amount of the refund is limited to \$5,000 per parcel of property, or \$10,000 if at least 20 percent of full-time employees are enterprise zone residents. The refund is limited to one per parcel of property.

- **Sales Tax Refund for Business Machinery and Equipment Used in an Enterprise Zone (s. 212.08(5)(h), F.S.)**

A refund is available for sales taxes paid on the purchase of certain business property, (e.g., tangible personal property such as office equipment, warehouse equipment, and some industrial machinery and equipment). The minimum purchase price of equipment is \$5,000 per unit. The amount of the refund is limited to \$5,000, or \$10,000 if at least 20 percent of full-time employees are enterprise zone residents.

- **Sales Tax Exemption for Electrical Energy Used in an Enterprise Zone (s.212.08(15), F.S.)**

Qualified businesses located in an enterprise zone are eligible for a sales tax exemption on their electricity purchases if the municipality in which they are located has enacted an ordinance providing an exemption from municipal utility tax. The sales tax exemption is 50 percent or 100 percent if at least 20 percent of full-time employees are enterprise zone residents. The qualified business may receive the exemption for up to 5 years.

- **Sales Tax Exemption for Machinery and Equipment used in the Production of Renewable Energy (s. 212.08(5)(c), F.S.)**

The purchase of machinery and equipment used in the production of renewable energy is exempt from sales and use tax.

QUALIFYING REQUIREMENTS:

- The incentives and benefits are available to energy economic zones designated before July 1, 2010.
- By March 1, 2012, each local governing body with jurisdiction over an energy economic zone, must by local ordinance, establish the boundary of the energy economic zones, specify applicable energy-efficiency standards and determine the eligibility criteria for the application of state and local incentives and benefits.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity, Department of Transportation and the Department of Agriculture and Consumer Services provide technical assistance to designated communities.
- The governing body of an energy economic zone is responsible for allocating the incentives and verifying that businesses are eligible.
- The Department of Economic Opportunity must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 15, 2015, evaluating whether the pilot program has demonstrated success.

SIGNIFICANT HISTORY:

- Created in 2009 and revised in 2011 to include tax incentives.
- There are currently two designated Energy Economic Zone Pilot Program Communities located in the City of Miami Beach and Sarasota County.

FISCAL IMPACT:

\$300,000 per energy economic zone in any state fiscal year

INCENTIVES SPECIFIC TO SPACEFLIGHT ACTIVITY

Since the creation of Spaceport Florida in 1989, the state has pursued space-related businesses as part of its economic development policy.

- The Spaceport Florida Authority Act included tax exemptions for rocket fuel as well as orbital space facilities, space propulsion systems, space vehicles, satellites, space stations, and tangible personal property placed or used on any of these devices.
- In 2000, an exemption was created for renting or leasing property used or occupied predominantly for space flight business purposes.
- In 2011, spaceflight business tax credits were created to attract launch, payload, research and development, and other space business to Florida. For a spaceflight business meeting job creation and other criteria, nontransferable corporate income tax credits can be used to offset up to 50 percent of the business's corporate income tax liability and transferable credits may be sold in an amount equal to the business's net operating loss.
 - The credits in this program are limited to tax returns filed on or after October 1, 2015, and no credit may be approved after October 1, 2017.
 - The maximum amount of nontransferable credit that may be approved under this program is \$3 million, and the maximum amount of transferable credit is \$7 million.
- Spaceflight activity is also eligible for many other tax incentives relating to machinery and equipment purchases.

SPACEPORT TAX EXEMPTIONS

Sections 206.42 and 212.08(16), F.S.

INCENTIVE:

- Provides tax exemptions for:
 - Rocket fuel, defined as fuel being produced for and sold and exclusively used for space flight, from sales tax and the tax on aviation fuel;
 - Any orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind possessing space flight capacity, including the components thereof; and
 - Tangible personal property placed on or used aboard any orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind, irrespective of whether such tangible personal property is returned to this state for subsequent use, storage, or consumption in any manner.

PURPOSE:

- These exemptions were enacted as part of the Spaceport Florida Authority Act, and the purpose of that act was to:
 - (P)rovide a unified direction for space-related economic growth and educational development, to ensure a stable and dynamic economic climate, to attract and maintain space-related businesses suitable to the state, and to further the coordination and development of Florida's economy.⁵

QUALIFYING REQUIREMENTS:

- In order to qualify for any of these exemptions, a transaction must meet the statutory criteria, as cited above.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Revenue's normal oversight of tax exemption claims applies to these exemptions.

SIGNIFICANT HISTORY:

- Created in 1989.

⁵ Chapter 89-300, L.O.F., sec. 2.

FISCAL IMPACT:

- The Florida Tax Handbook reports that the exemption for satellites or other space vehicles reduces sales tax revenue by \$70.6 million annually,⁶ but this estimate has not been examined closely in recent years.

⁶2012 Florida Tax Handbook, p. 159.

SALES TAX EXEMPTION FOR SPACEFLIGHT COMMERCIAL LEASES

Section 212.031(1)(a)12., F.S.

INCENTIVE:

- Provides a sales tax exemption for renting or leasing property used or occupied predominantly for space flight business purposes.

PURPOSE:

- Is consistent with other tax preferences provided to the space industry to attract and maintain space-related businesses suitable to the state.

QUALIFYING REQUIREMENTS:

- To qualify for this exemption, property must be used or occupied predominantly for “space flight business” purposes, which means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, or components thereof, and also means the following activities supporting spaceflight:
 - Vehicle launch activities,
 - Flight operations,
 - Ground control or ground support, and
 - All administrative activities related thereto.

APPROVAL / OVERSIGHT / LIMITATIONS:

- Possession by a landlord of a signed written statement from the tenant claiming the exemption relieves the landlord from the responsibility of collecting the tax.
- The Department of Revenue looks solely to the tenant for recovery of the tax if it determines that the exemption was not applicable.

SIGNIFICANT HISTORY:

- Created in 2000.

FISCAL IMPACT:

- This exemption is estimated to reduce state revenue by \$600,000 annually.

SPACEFLIGHT BUSINESS TAX CREDITS

Sections 220.194, F.S.

INCENTIVE:

- Provides nontransferable corporate income tax credits for up to 50 percent of the business's corporate income tax liability; and
- Provides transferable tax credits equal to the amount of a certified spaceflight business's Florida net operating loss, if the activity that gave rise to the net operating loss occurred after July 1, 2011.

PURPOSE:

- To create incentives to attract launch, payload, research and development, and other space business to this state.⁷

QUALIFYING REQUIREMENTS:

- The applicant must be a spaceflight business with a physical address in Florida.
- The applicant must have engaged in a qualifying spaceflight project before taking or transferring a credit.
- The applicant must have created 35 new fulltime jobs in this state directly associated with spaceflight projects during its immediately preceding 3 taxable years, and these jobs must pay at least 115 percent of the statewide or countywide average annual private sector wage for the preceding 3 taxable years.
- The applicant must have invested a total of at least \$15 million in this state on a spaceflight project during its immediately preceding 3 taxable years.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity must approve all applications for this credit, as well as the transfer of transferable credits.
- A certified spaceflight business may be approved for nontransferable credits only once and for transferable credits only once, and may not be approved for both types of credits in a single year.
- Credits must be based upon tax liabilities directly related to spaceflight projects as verified by an audit or examination by a certified public accountant and verified by DEO.

⁷ Section 220.194, F.S.

- Previously claimed tax credits may be forfeited if DOR determines that the taxpayer was not entitled to the credits.
- DEO may revoke or modify a certificate granting eligibility for tax credits if it finds that the certified spaceflight business made a false statement or representation on its application or other document filed in an attempt to receive these tax credits.
- This program is limited to returns filed for any tax period beginning October 1, 2015, and no credit may be approved after October 1, 2017.
- The maximum nontransferable credit amount available to any one business in a single year is \$1 million, and the total amount of nontransferable credits that may be approved during the life of the program is \$3 million.
- The maximum transferable credit amount available to any one business in a single year is \$2.5 million, and the total amount of transferable credits that may be approved during the life of the program is \$7 million.

SIGNIFICANT HISTORY:

- Created in 2011.⁸

FISCAL IMPACT:

- \$10 million in FY 2015-16 through 2017-18.

⁸ Chapter 2011-76, L.O.F.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development, *Chair*
Appropriations
Appropriations Subcommittee on Finance and Tax
Environmental Preservation and Conservation
Ethics and Elections
Gaming
Judiciary
Military Affairs, Space, and Domestic Security
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR ANDY GARDINER
13th District

April 11, 2013


The Honorable Dorothy Hukill, Chair
Appropriations Subcommittee on Finance and Tax
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Hukill:

I am writing to respectfully request that I be excused from the Appropriations Subcommittee on Finance and Tax meeting scheduled for Thursday, April 11. I have had an issue arise that requires my immediate attention.

If you have any questions regarding this request, please do not hesitate to call my office. Thank you for your time and consideration of this matter.

Sincerely,


Senator Andy Gardiner

AG:gh

Cc: ~~Jose Diez-Arguelles~~, Staff Director
Cheryl Dewees, Administrative Assistant

REPLY TO:

- 1013 East Michigan Street, Orlando, Florida 32806 (407) 428-5800
- 420 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5013

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/13
Meeting Date

Topic AG LANDS Bill Number 1190
Name NANCY STEPHENS Amendment Barcode _____ (if applicable)
Job Title EXECUTIVE VICE PRESIDENT
Address 11025 SUMMIT LAKE DR, STE 300 Phone 850 402 2954
Street City State Zip E-mail nancy@nstephens.com

Speaking: For Against Information

Representing FLORIDA POULTRY FEDERATION

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/13
Meeting Date

Topic Duplication of Aglands

Bill Number 1190
(if applicable)

Name Adam Basford

Amendment Barcode _____
(if applicable)

Job Title Dir. of Legislative Affairs

Address 315 S Calhoun St Suite 850

Phone 222-2557

16th Avenue FL 32301
City State Zip

E-mail _____

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11
Meeting Date

Topic _____

Bill Number 1198
(if applicable)

Name Jim Spratt

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 10011

Phone 858-228-1296

TALUX FL 32902
City State Zip

E-mail Jim@magro/astrakjio/llc.com

Speaking: For Against Information

Representing Florida Nursery, Growers & Landscape 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4 / 11 / 2013

Meeting Date

Topic _____

Bill Number 1190
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-13

Meeting Date

Topic State Lands

Bill Number 1190
(if applicable)

Name Cindy Littlejohn

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address 310 W. College

Phone 222-7535

Street

City

Tall, FL

State

Zip

32301

E-mail c11roe@gmail.com

Speaking: For Against Information

Representing FL Land Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/13

Meeting Date

Topic Ag. Lands

Bill Number 1190
(if applicable)

Name Alan Shelby

Amendment Barcode _____
(if applicable)

Job Title EVP

Address 402 E. Jefferson St.
Street

Phone 850-222-5646

Fall. FL 32301
City State Zip

E-mail alan@forestfla.org

Speaking: For Against Information

Representing Florida Forestry 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-13

Meeting Date

Topic Ag. Land

Bill Number SB 1190
(if applicable)

Name Doug Mann

Amendment Barcode —
(if applicable)

Job Title _____

Address 310 W. College Ave
Street

Phone 229-7535

Tallahassee FL 32304
City State Zip

E-mail _____

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 11, 2013

Meeting Date

Topic Dyed Diesel Fuel Tax - Shrimp Boats

Bill Number SB 960
(if applicable)

Name Janie G Thomas

Amendment Barcode _____
(if applicable)

Job Title Shrimp Producers Association, Executive Director

Address 95289 Nassau River Rd

Phone 904-588-4423 904-261-6615

Street

Fernandina Beach FL 32034-95

E-mail fecspi@aol.com

City

State

Zip

Speaking: For Against Information

Representing Shrimp Producers Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11
Meeting Date

Topic FUEL TAX

Bill Number 960
(if applicable)

Name JERRY SANSON

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 200

Phone 321-773-0212

Cocoa FL 32927
City State Zip

E-mail FISHAW10@AOL.COM

Speaking: For Against Information

Representing ORGANIZED FISHERMEN 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-13

Meeting Date

Topic Remote Sales Taxes

Bill Number 316
(if applicable)

Name Kurt Wenner

Amendment Barcode _____
(if applicable)

Job Title Vice President of Tax Research

Address 106 N. Bronough Street

Phone 222-5052

Street

Tallahassee FL 32301

E-mail kwenner@floridataxwatch.org

City

State

Zip

Speaking: For Against Information

Representing Florida TaxWatch

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

11 Apr 13

Meeting Date

Topic Taxation of Mail Order Sales

Bill Number 316
(if applicable)

Name Charles Milsted

Amendment Barcode _____
(if applicable)

Job Title Associate State Director

Address 200 West College Avenue

Phone 850-577-5190

Street

Tallahassee

FL

32301

E-mail cmilsted@aarp.org

City

State

Zip

Speaking: For Against Information

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/2013

Meeting Date

Topic _____

Bill Number 316
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/13

Meeting Date

Topic E-Fairness Bill Number 316
(if applicable)

Name Carolyn Johnson Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 136 S Bronough St Phone _____
Street

Tallahassee E-mail cjohnson@flchamber.com
City State Zip

Speaking: For Against Information

Representing FL Chamber of Commerce

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/13

Meeting Date

Topic Relating to Taxes

Bill Number SB 316
(if applicable)

Name Brewster Bevis

Amendment Barcode _____
(if applicable)

Job Title Senior Vice President

Address 516 N. Adams St
Street

Phone 224-7173

Tallahassee FL 32301
City State Zip

E-mail bbevis@aif.com

Speaking: For Against Information

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/2013
Meeting Date

Topic E-FAIRNESS

Bill Number SB 316
(if applicable)

Name RANDY MILLER

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE VICE PRESIDENT

Address 227 S. ADAMS ST.
Street

Phone _____

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Brownfields

Bill Number SB 554
(if applicable)

Name JERRY SANSON

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 98

Phone 321 777-8130

Cocoa FL 32923
Street City State Zip

E-mail FISHAWK@aol.com

Speaking: For Against Information

Representing CITIES of COCOA, ROCKLEDGE & MELBOURNE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-13

Meeting Date

Topic Brownfields

Bill Number 554
(if applicable)

Name Marty Cassini

Amendment Barcode _____
(if applicable)

Job Title Legislative Counsel

Address 115 S. Andrews Ave, 426

Phone 954-357-7575

Fort Lauderdale FL 33301
City State Zip

E-mail mcassini@broward.org

Speaking: For Against Information

Representing Broward County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/13
Meeting Date

Topic BROWN FIELDS

Bill Number SB 554
(if applicable)

Name HUBERT "BO" BOHANNON

Amendment Barcode _____
(if applicable)

Job Title LOBBYIST

Address 200 W. COLLEGE AVE
Street
TALLAHASSEE
City State Zip

Phone 850-443-1131

E-mail BO@The-Foresting-Group.com

Speaking: For Against Information

Representing FLORIDA BROWN FIELDS 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-12

Meeting Date

Topic Brownfield

Bill Number CS/CS/SB 554
(if applicable)

Name Doug Mann

Amendment Barcode _____
(if applicable)

Job Title _____

Address 312 W. College Ave 1
Street

Phone 222-7535

Tallahassee FL 32301
City State Zip

E-mail _____

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.

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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)

Meeting Date _____

Topic Brownfields Bill Number SB 0554
(if applicable)

Name MARA HATFIELD Amendment Barcode _____
(if applicable)

Job Title ATTORNEY

Address 10 CARRICK RD Phone 561-427-4630
Street

PBB FL 33418 E-mail MARA@senate.fl.gov
City State Zip

Speaking: For Against Information

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4.11.13
Meeting Date

Topic SB 856

Bill Number 856
(if applicable)

Name Angela Dempsey

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address 106 East College Ave, Ste 1100
Street

Phone 850-681-1980

Jallahassee 32201
City State Zip

E-mail Angela.Dempsey@
dutkoGRAYLOG.COM

Speaking: For Against Information

Representing Miami Dade County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/201

Meeting Date

Topic _____

Bill Number 856
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11
Meeting Date

Topic _____

Bill Number 1200
(if applicable)

Name SIM SPRAIT

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 10011
Street
Tavares FL 32302
City State Zip

Phone 950-228-1296

E-mail sim@magnumgardens.com

Speaking: For Against Information

Representing Florida Nursery, Growers & Landscape 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-13

Meeting Date

Topic Tax Ag property

Bill Number SB 1200
(if applicable)

Name Doug Mount

Amendment Barcode _____
(if applicable)

Job Title _____

Address 310 W. College Ave.
Street

Phone 222-7535

Valdosta FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing ATF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4 / 11 / 2013

Meeting Date

Topic _____

Bill Number 1200
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-13

Meeting Date

Topic Property Tax - VAB

Bill Number ~~HB 138~~ ~~SB 1384~~ SB 1200
(if applicable)

Name Amanda Coffey

Amendment Barcode _____
(if applicable)

Job Title Deputy for Gov't Affairs & Staff Counsel

Address PO Box 1957

Phone 727-464-5578

Street

Clearwater

FL

33757

City

State

Zip

E-mail acoffey@pcpa.org

Speaking: For Against Information

Representing PINELLAS COUNTY PROP APPR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/13

Meeting Date

Topic Property Tax

Bill Number SB 1200
(if applicable)

Name Martha Cleaver

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 403 E Park Ave

Phone 850/681-2770

Tallahassee, FL 32301
Street City State Zip

E-mail marthacleaver@fapa.net

Speaking: For Against Information

Representing Florida Assoc. of Property Appraisers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/13

Meeting Date

Topic Taxation of Property

Bill Number 1200
(if applicable)

Name Alan Shelby

Amendment Barcode _____
(if applicable)

Job Title EVP

Address 402 E. Jefferson St.
Street

Phone 850-222-5646

Tall FL 32301
City State Zip

E-mail alan@forestfla.org

Speaking: For Against Information

Representing Florida Forestry Assn.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-11-13

Meeting Date

Topic Jayation

Bill Number 1200
(if applicable)

Name Cindy Littlejohn

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address 310 W. College

Phone 222-7535

Street

Jalla, FL 32301

City

State

Zip

E-mail cindy@littlejohn
mcm.com

Speaking: For Against Information

Representing Plum Creek Timber

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/13

Meeting Date

Topic Taxation of Property

Bill Number 1200
(if applicable)

Name Adam Besford

Amendment Barcode _____
(if applicable)

Job Title Dir of Legislative Affairs

Address 315 S Cathain St
Street
Tallahassee FL 32301
City State Zip

Phone _____

E-mail _____

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/13
Meeting/Date

Topic TAXATION OF PROPERTY

Bill Number 1200
(if applicable)

Name NANCY STEPHENS

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE VICE PRESIDENT

Address 1625 SUMMIT LAKE DR, STE 300
Street

Phone 850 402 2954

TALLAHASSEE FL 32317
City State Zip

E-mail nancy@nstephen.com

Speaking: For Against Information

Representing FLORIDA POULTRY 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/2013

Meeting Date

Topic _____

Bill Number 1718
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

CourtSmart Tag Report

Room: LL 37

Case:

Type:

Caption: Senate Appropriations Subcommittee on Finance and Tax

Judge:

Started: 4/11/2013 10:33:51 AM

Ends: 4/11/2013 12:02:54 PM Length: 01:29:04

10:33:53 AM Sen. Hukill calls the meeting to order
10:34:03 AM Roll call
10:34:24 AM Sen. Hukill
10:34:52 AM Sen. Simpson presents SB 1200, Taxation of Property
10:35:20 AM Sen. Hukill Amendment 773430 by Sen. Ring
10:35:42 AM Sen. Ring
10:35:44 AM Sen. Hukill
10:35:47 AM Sen. Simpson
10:35:51 AM Sen. Hukill
10:35:54 AM Sen. Simpson presents Amendment 773430
10:36:13 AM Sen. Hukill
10:36:33 AM Sen. Hukill Amendment 773430 adopted
10:36:39 AM Sen. Hukill late-filed Amendment 484096 by Sen. Ring introduced
10:36:54 AM Sen. Simpson presents Amendment 484096
10:37:00 AM Sen. Hukill
10:37:15 AM Sen. Hukill Amendment 484096 adopted
10:37:21 AM Sen. Hukill now on SB 1200 as amended
10:37:36 AM Jim Spratt, Florida Nursery, Growers, and Landscape Association, waives in support.
10:37:44 AM Doug Mann, Associated Industries of Florida, waives in support
10:37:53 AM Brian Pitts, Trustee, Justice-2-Jesus, waives in support
10:38:03 AM Amanda Coffey, Deputy for Government Affairs and Staff Counsel, Pinellas County Property Appraisers, waives in support
10:38:06 AM Martha Cleaver, Executive Director, Florida Association of Property Appraisers, waives in support
10:38:14 AM Alan Shelby, Executive Vice President, Florida Forestry Association, waives in support
10:38:20 AM Cindy Littlejohn, Counsultant, Plum Creek Timber, waives in support
10:38:27 AM Adam Basford, Director of Legislative Affairs, Florida Farm Bureau, waives in support
10:38:33 AM Nancy Stephens, Executive Vice President, Florida Poultry Federation, waives in support
10:38:41 AM Sen. Hukill
10:38:53 AM Sen. Simpson waives close
10:38:59 AM Sen. Hukill - Sen. Abruzzo moves to recommend SB 1200 as a Committee Substitute
10:39:08 AM Roll call on SB 1200 as Committee Substitute
10:39:28 AM Sen. Hukill SC 1200 reported favorably as Committee Substitute
10:39:41 AM Sen. Hukill SB 856 by Sen. Bullard, Community Redevelopment
10:39:57 AM Sen. Bullard presents SB 856
10:40:09 AM Sen. Hukill late-filed Amendment 342076 by Sen. Abruzzo
10:40:24 AM Sen. Abruzzo
10:40:28 AM Sen. Hukill late-filed Amendment 342076 introduced
10:40:44 AM Sen. Abruzzo presents late-filed Amendment 342076
10:40:59 AM Sen. Hukill
10:41:47 AM Sen. Abruzzo
10:42:17 AM Sen. Hukill
10:42:37 AM Sen. Abruzzo temporarily postpones Amendment 342076
10:42:46 AM Sen. Hukill
10:42:47 AM Sen. Abruzzo
10:43:05 AM Sen. Bullard
10:43:08 AM Sen. Abruzzo
10:43:09 AM Sen. Hukill
10:43:10 AM Sen. Abruzzo
10:43:11 AM Sen. Hukill Amendment 342076 withdrawn
10:43:32 AM Angela Dempsey, Lobbyist, Miami Dade County, waives in support
10:43:39 AM Brian Pitts, Trustee, Justice-2-Jeses, waives in support
10:43:44 AM Sen. Hukill

10:43:53 AM Sen. Bullard waives close
10:43:55 AM Sen. Hukill
10:44:10 AM Roll call on SB 856
10:44:34 AM Sen. Hukill SB 856 recommended favorably
10:44:48 AM Sen. Hukill CS/SB 1718 by Senator Flores - Discretionary Sales Surtaxes
10:45:16 AM Lissette Vasquez, Legislative Assistant for Sen. Flores, presents CS/SB 1718
10:45:37 AM Sen. Hukill
10:45:58 AM Brian Pitts, Trustee, Justice-2-Jesus
10:49:45 AM Sen. Hukill
10:49:57 AM Ms. Vasquez waives close
10:49:59 AM Sen. Hukill
10:50:24 AM Roll call on CS/SB 1718
10:50:45 AM Sen. Hukill CS/SB 1718 recommended favorably
10:50:53 AM Sen. Hukill CS/CS/SB 554 by Sen. Altman - Brownfields
10:51:04 AM Sen. Altman presents CS/CS/SB 554
10:51:31 AM Sen. Hukill
10:51:41 AM Sen. Clemens
10:51:56 AM Sen. Hukill
10:51:58 AM Sen. Altman
10:52:52 AM Sen. Hukill
10:52:54 AM Sen. Clemens
10:53:04 AM Sen. Hukill
10:53:05 AM Sen. Altman
10:53:08 AM Sen. Hukill
10:53:20 AM Sen. Diaz de la Portilla
10:53:37 AM Sen Hukill
10:53:39 AM Sen. Altman
10:54:28 AM Sen. Hukill
10:54:30 AM Sen. Diaz de la Portilla
10:54:47 AM Sen. Hukill
10:54:49 AM Sen. Altman
10:56:05 AM Sen. Hukill
10:56:30 AM Mara Hatfield, Attorney, Palm Beach Gardens, FL
11:01:29 AM Sen. Hukill
11:01:32 AM Sen. Diaz de la Portilla
11:02:08 AM Sen. Hukill
11:02:12 AM Ms. Hatfield
11:03:16 AM Sen. Hukill
11:03:17 AM Sen. Diaz de la Portilla
11:03:17 AM Sen. Hukill
11:03:20 AM Sen. Altman
11:04:32 AM Sen. Hukill
11:04:43 AM Doug Mann, Associated Industries of Florida, waives in support
11:04:51 AM Hubert "Bo" Bohannon, Lobbyist, Florida Brownfields Association, waives in support
11:05:00 AM Marty Cassini, Legislative counsel, Broward County, waives in support
11:05:04 AM Jerry Sansom, Cities of Cocoa, Rockledge, and Melbourne, waives in support
11:05:11 AM Sen. Hukill
11:05:21 AM Sen. Sachs
11:05:52 AM Sen. Hukill
11:05:56 AM Sen. Clemens
11:06:05 AM Sen. Hukill
11:06:08 AM Sen. Diaz de la Portilla
11:06:19 AM Sen. Hukill
11:06:24 AM Sen. Altman
11:06:34 AM Sen. Hukill
11:06:46 AM Roll call on CS/CS/SB 554
11:07:07 AM Sen. Hukill CS/CS/SB 554 recommended favorably
11:07:16 AM Sen. Hukill SB 1280 by Sen. Sachs - Tax Dealer Collection Allowances
11:07:36 AM Sen. Sachs - SB 1280
11:08:45 AM Sen. Hukill - Amendment 575878 by Sen. Sachs adopted
11:09:21 AM Sen. Sachs waives close
11:09:24 AM Sen. Hukill

11:09:33 AM Sen. Hukill - Sen. Brandes recommends a Committee Substitute, motion adopted
11:09:36 AM Roll call on SB 1280 as Committee Substitute
11:09:54 AM Sen. Hukill SB 1280 recommended favorably as Committee Substitute
11:10:01 AM Sen. Hukill CS/SB 316 by Sen. Detert - Taxes
11:10:19 AM Sen. Detert presents CS/SB 316 and strike-all Amendment 126132 by Sen. Margolis
11:13:01 AM Sen. Hukill
11:13:18 AM Sen. Clemens
11:13:24 AM Sen. Detert
11:13:30 AM Sen. Clemens
11:13:32 AM Sen. Hukill
11:13:34 AM Sen. Detert
11:13:42 AM Sen. Hukill
11:13:43 AM Sen. Clemens
11:13:53 AM Sen. Hukill
11:13:55 AM Sen. Clemens
11:13:58 AM Sen. Hukill
11:13:59 AM Sen. Detert
11:14:56 AM Sen. Hukill
11:15:00 AM Sen. Margolis
11:15:58 AM Sen. Hukill
11:16:21 AM Sen. Sachs
11:16:26 AM Sen. Detert
11:16:27 AM Sen. Sachs
11:16:28 AM Sen. Detert
11:16:34 AM Sen. Sachs
11:17:20 AM Sen. Hukill
11:17:25 AM Sen. Clemens
11:17:53 AM Sen. Hukill
11:18:07 AM Sen. Brandes presents Amendment to Amendment 683512
11:18:21 AM Sen. Hukill
11:18:25 AM Sen. Clemens
11:18:27 AM Sen. Hukill
11:18:29 AM Sen. Brandes
11:18:41 AM Sen. Hukill
11:18:42 AM Sen. Brandes
11:18:50 AM Sen. Hukill
11:18:55 AM Sen. Detert
11:19:14 AM Sen. Hukill
11:19:27 AM Sen. Hukill Amendment to Amendment 683512 adopted
11:19:34 AM Sen. Hukill Amendments to Amendment 172076 and 188326 are withdrawn by Sen. Brandes
11:19:42 AM Sen. Hukill Amendment to Amendment 780744 by Sen. Brandes
11:19:47 AM Sen Brandes presents Amendment to Amendment 780744
11:20:17 AM Sen. Hukill
11:20:24 AM Sen. Detert
11:21:32 AM Sen. Hukill
11:21:34 AM Sen. Brandes withdraws Amendment to Amendment 780744
11:21:35 AM Sen. Hukill Amendment to Amendment 780744 withdrawn
11:21:41 AM Sen. Hukill back on strike-all as amended
11:22:01 AM Sen. Ring
11:22:07 AM Sen. Hukill
11:22:08 AM Sen. Detert
11:23:05 AM Sen. Hukill
11:23:12 AM Sen. Ring
11:23:17 AM Sen. Hukill
11:23:20 AM Sen. Detert
11:23:39 AM Sen. Hukill
11:23:40 AM Sen. Ring
11:23:56 AM Sen. Detert
11:24:13 AM Sen. Hukill
11:24:14 AM Sen. Clemens
11:24:26 AM Sen. Hukill
11:24:29 AM Sen. Detert

11:24:53 AM Sen. Hukill
11:24:59 AM Sen. Altman
11:25:27 AM Sen. Detert
11:25:30 AM Sen. Altman
11:25:36 AM Sen. Detert
11:26:21 AM Sen. Hukill
11:26:22 AM Sen. Altman
11:26:47 AM Sen. Detert
11:27:20 AM Sen. Hukill
11:27:27 AM Sen. Hukill Amendment 126132 as amended adopted
11:27:51 AM Brewster Bevis, Senior Vice President, Associated Industries of Florida
11:28:20 AM Sen. Hukill
11:28:28 AM Carolyn Johnson, Policy Director, Florida Chamber of Commerce, waives in support
11:28:30 AM Sen. Hukill
11:28:39 AM Randy Miller, Executive Vice President, Florida Retail Federation
11:30:41 AM Sen. Hukill
11:30:54 AM Brian Pitts, Trustee, Justice-2-Jesus
11:32:26 AM Sen. Hukill
11:32:33 AM Charles Milsted, Associate State Director, AARP, waives in support
11:32:34 AM Sen. Hukill
11:32:38 AM Kurt Wenner, Vice President of Tax Research, Florida TaxWatch, waives in support
11:32:43 AM Sen. Hukill
11:32:57 AM Sen. Detert closes on SB 316
11:33:31 AM Sen. Hukill
11:33:37 AM Sen. Hukill - Sen. Brandes moves to recommend SB 316 favorably as a Committee Substitute, motion adopted
11:33:46 AM Roll call on CS/ SB 316 as Committee Substitute
11:34:04 AM Sen. Hukill CS/SB 316 recommended favorably as a Committee Substitute
11:34:15 AM Sen. Hukill CS/SB 960 by Senator Bean - Tax on Sales, Use, and Other Transactions
11:34:27 AM Sen. Bean presents CS/SB 960 and strike-all Amendment 138984 by Sen. Simmons
11:35:49 AM Sen. Hukill strike-all Amendment 138984
11:36:03 AM Sen. Ring
11:36:10 AM Sen. Bean
11:36:11 AM Sen. Hukill
11:36:14 AM Sen. Clemens
11:36:16 AM Sen. Hukill
11:36:17 AM Sen. Bean
11:36:52 AM Sen. Hukill
11:36:57 AM Sen. Evers
11:37:13 AM Sen. Hukill
11:37:14 AM Sen. Bean
11:37:17 AM Sen. Hukill
11:37:18 AM Sen. Evers
11:37:23 AM Sen. Hukill
11:37:24 AM Sen. Evers
11:37:27 AM Sen. Bean
11:37:38 AM Sen. Evers
11:37:38 AM Sen. Hukill
11:37:40 AM Sen. Evers
11:37:43 AM Sen. Bean
11:37:46 AM Sen. Evers
11:37:48 AM Sen. Bean
11:37:50 AM Sen. Hukill
11:37:52 AM Sen. Clemens
11:37:59 AM Sen. Hukill
11:38:00 AM Sen. Bean
11:38:03 AM Sen. Hukill
11:38:06 AM Sen. Abruzzo
11:38:09 AM Sen. Bean
11:38:10 AM Sen. Hukill
11:38:11 AM Sen. Bean
11:38:18 AM Sen. Hukill

11:38:19 AM Sen. Altman
11:38:47 AM Sen. Hukill
11:38:48 AM Sen. Bean
11:38:55 AM Sen. Hukill
11:38:59 AM Sen. Diaz de la Portilla
11:39:08 AM Sen. Hukill
11:39:09 AM Sen. Bean
11:39:49 AM Sen. Hukill
11:39:50 AM Sen. Diaz de la Portilla
11:39:52 AM Sen. Hukill
11:40:06 AM Janie G. Thomas, Executive Director, Shrimp Producers Association, Fernandina Beach, FL
11:42:39 AM Sen. Hukill
11:42:44 AM Sen. Sachs
11:43:00 AM Sen. Hukill
11:43:12 AM Jerry Sansom, Organized Fishermen of Florida
11:46:48 AM Sen. Hukill
11:46:53 AM Sen. Clemens
11:47:03 AM Sen. Hukill
11:47:10 AM Mr. Sansom
11:48:28 AM Sen. Hukill
11:48:29 AM Sen. Clemens
11:48:47 AM Sen. Hukill
11:48:48 AM Jerry Sansom
11:49:59 AM Sen. Hukill
11:50:04 AM Sen. Simmons
11:50:09 AM Sen. Hukill
11:50:10 AM Sen. Simmons
11:50:12 AM Sen. Hukill
11:50:15 AM Sen. Margolis
11:50:37 AM Sen. Hukill
11:50:39 AM Mr. Sansom
11:52:10 AM Sen. Hukill
11:52:11 AM Sen. Evers
11:52:18 AM Sen. Hukill
11:52:19 AM Mr. Sansom
11:52:37 AM Sen. Hukill
11:52:49 AM Sen. Altman
11:52:57 AM Sen. Hukill
11:52:58 AM Mr. Sansom
11:53:03 AM Sen. Altman
11:53:05 AM Sen. Hukill
11:53:24 AM Sen. Bean
11:53:30 AM Sen. Hukill
11:53:34 AM Sen. Hukill Amendment 138984 adopted
11:54:09 AM Sen. Hukill - Sen. Sachs moves to recommend CS/SB 960 favorably as a Committee Substitute, motion adopted
11:54:16 AM Roll call CS/SB 960 as Committee Substitute
11:54:37 AM Sen. Hukill CS/SB 960 recommended favorably as Committee Substitute
11:54:43 AM SB 1190 by Sen. Brandes - Agricultural Lands
11:54:53 AM Sen. Brandes presents SB 1190
11:55:20 AM Sen. Hukill
11:55:31 AM Sen. Margolis
11:56:01 AM Sen. Hukill
11:56:02 AM Sen. Brandes
11:56:46 AM Sen. Hukill
11:56:48 AM Sen. Margolis
11:57:10 AM Sen. Hukill
11:57:12 AM Sen. Brandes
11:57:47 AM Sen. Hukill
11:57:49 AM Sen. Margolis
11:58:25 AM Sen. Hukill
11:58:27 AM Sen. Brandes

11:59:13 AM Sen. Margolis
11:59:23 AM Sen. Brandes
11:59:26 AM Sen. Margolis
11:59:40 AM Sen. Hukill
11:59:52 AM Sen. Brandes
12:00:17 PM Sen. Hukill
12:00:23 PM Sen. Clemens
12:00:28 PM Sen. Hukill
12:00:30 PM Sen. Brandes
12:00:46 PM Sen. Clemens
12:00:49 PM Sen. Hukill
12:01:02 PM Doug Mann, Associated Industries of Florida, waives in support
12:01:04 PM Sen. Hukill
12:01:13 PM Alan Shelby, Executive Vice President, Florida Forestry Association, waives in support
12:01:19 PM Sen. Hukill
12:01:25 PM Cindy Littlejohn, Consultant, Florida Land Council, waives in support
12:01:26 PM Sen. Hukill
12:01:28 PM Brian Pitts, Trustee, Justice-2-Jesus, waives in support
12:01:30 PM Sen. Hukill
12:01:34 PM Jim Spratt, Florida Nursery, Growers and Landscape Association, waives in support
12:01:36 PM Sen. Hukill
12:01:40 PM Adam Basford, Director of Legislative Affairs, Florida Farm Bureau, waives in support
12:01:42 PM Sen. Hukill
12:01:45 PM Nancy Stephens, Executive Vice President, Florida Poultry Federation, waives in support
12:01:46 PM Sen. Hukill
12:02:10 PM Sen. Brandes waives close
12:02:15 PM Sen. Hukill - Sen. Clemens moves to recommend SB 1190 favorably
12:02:22 PM Roll call on SB 1190
12:02:39 PM Sen. Hukill SB1190 recommended favorably
12:02:51 PM Meeting adjourned