The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 560

INTRODUCER: Senator Simpson and others

SUBJECT: Natural Gas Motor Fuel

DATE: February 17, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Pre-meeting**
2.			AFT	
3.			AP	
4.				
5.				
6.				

I. Summary:

SB 560 addresses a number of issues related to the use of natural gas used as a motor fuel. The bill:

- establishes a fuel tax structure for natural gas used as a motor fuel similar to that for diesel fuel;
- relocates provisions relating to retailer of alternative fuel licenses and related reporting requirements;
- eliminates the current decal program for vehicles powered by alternative fuels;
- revises provisions governing distribution of state alternative fuel fee proceeds;
- repeals the Local Alternative Fuel User Fee Clearing Trust Fund; and
- provides for a five-year incentive program to purchasers of natural gas vehicles funded by a portion of the State Comprehensive Enhanced Transportation System Tax.

This bill amends the following sections of the Florida Statutes: 206.86, 206.87, 206.91, and 212.055.

This bill renumbers and amends the following section of the Florida Statutes: 206.879.

This bill creates the following sections of the Florida Statutes: 206.9951, 206.9952, 206.9955, 206.996, 206.9965, 206.9975, and 206.998.

This bill repeals the following sections of the Florida Statutes: 206.877 and 206.89.

II. Present Situation:

Due to increased domestic exploration and production, the supply of natural gas in the U.S. and in Florida is expanding. Expanded supply translates into a significant reduction in fuel costs and increased potential for recognized environmental benefits for both the private and public sector. The discussion surrounding the expansion of the use of natural gas as a motor fuel is in part a “chicken v. egg” dilemma, *i.e.*, which needs to come first: vehicles powered by natural gas, or natural gas refueling infrastructure? Spurred by the benefits of the use of natural gas, the discussion often focuses on the conversion of truck fleets to the use of natural gas and the corresponding, dependent need for natural gas refueling infrastructure.

The inherent benefits of natural gas, federal incentives, and favorable treatment of alternative fuel under current state law already appear to be having an impact on the supply of both refueling stations and natural gas powered vehicles. For example, one dealership reports selling as many natural gas vehicles in 2012 than it did in the previous two years combined.[1] According to Transport Topics magazine, LNG and CNG are increasingly found at more fuel islands at truck stops and travel plazas, and in June of last year, Shell Oil Co. announced plans to build more than 200 LNG lanes at approximately 100 locations throughout the county.[2] Similar evidence is found in Florida, where a Tampa-based beer distributor recently ordered 43 CNG tractors with plans to replace its entire 95-unit fleet within the next 36 months, in what is called “one of the first fair market value leases for a CNG vehicle in the United States.”[3]

Benefits of Natural Gas

When compared using equivalent units of measure, natural gas is less expensive than gasoline or diesel. In the U.S. Department of Energy’s Clean Cities Alternative Fuel Price Report for October 2012, the average price for gasoline in the Lower Atlantic states was $3.66, $3.96 for diesel, and $2.07 for a gasoline gallon equivalent of compressed natural gas (CNG). Natural gas, in this case, CNG[4], is clearly cheaper than diesel or gasoline. The savings in fuel costs are, of course, offset to a degree by the incremental cost of a natural gas vehicle over a gasoline or diesel-powered vehicle.

Due to the substantially higher fuel usage and the larger fuel price differential associated with CNG-powered fleet trucks, the recovery of the incremental cost is substantially more rapid than for standard passenger vehicles. In a study prepared for the Florida Natural Gas Vehicle Coalition (FNGVC),[5] the incremental cost of a standard passenger vehicle powered by CNG,

[1] JSOnline website: http://www.jsonline.com/business/more-fleets-turning-to-compressed-natural-gas-bq8gtko-188512051.html. Retrieved February 18, 2013.

[2] Transport Topics, *Truck Stops Expanding Purchase Options at Fuel Islands to Speed Driver Transactions*, February 4, 2013, p.12.

[3] Market Watch, The Wall Street Journal online: http://www.tampabay.com/news/business/energy/trucks-fueled-by-natural-gas-are-on-a-roll-in-florida/1275519. Retrieved February 18, 2013.

[4] Cost factors, in general, may be different for liquefied natural gas (LNG) vehicles. See Green Truck Association website for information on CNG and LNG: http://www.greentruckassociation.com/TechnicalResources/SustainableTechnologiesforWorkTrucks/NaturalGasCNGandLNG/tabid/129/Default.aspx.

[5] Fishkind & Associates, *Economic Impact of Incentives to Facilitate Compressed Natural Gas Vehicles in Florida*, August 1, 2012.

compared to a standard passenger vehicle powered by gasoline, ranges from $7,000 to $18,500.[6] Assuming each passenger vehicle consumes 531 gallons per year, and applying a gas-CNG price difference of $1.74, the payback period ranges from 7.6 years to 20 years.[7]

In contrast, the incremental cost of a truck powered by CNG over a diesel-powered truck is $76,100.[8] Assuming each vehicle consumes 11,706 gallons per year and assuming a price difference of $1.91, the payback period for conversion of a diesel-powered truck to a CNG-powered truck is only 3.4 years,[9] long before the expected useful life of a fleet truck expires. Further, reduced engine wear and extended service intervals also reduce maintenance costs for CNG-powered vehicles.[10] Thus, so long as the cost of natural gas remains low, as is expected, the cost savings on fuel can more than offset and outweigh the added price paid for the purchase of CNG vehicles, prior to the application of any government incentives.

In addition, well-recognized environmental benefits are associated with the use of natural gas.

> "Natural gas, as the cleanest of the fossil fuels, can be used in many ways to help reduce emissions of pollutants into the atmosphere. Burning natural gas in the place of other fossil fuels emits fewer harmful pollutants, and an increased reliance on natural gas can potentially reduce the emission of many of these most harmful pollutants.
>
> "Pollutants emitted in the United States, particularly from the combustion of fossil fuels, have led to the development of many pressing environmental problems. Natural gas, emitting fewer harmful chemicals into the atmosphere than other fossil fuels, can help to mitigate some of these environmental issues. These issues include:
> - Greenhouse Gas Emissions
> - Smog, Air Quality and Acid Rain
> - Industrial and Electric Generation Emissions
> - Pollution from the Transportation Sector – Natural Gas Vehicles"[11]

The FNGVC highlights the following benefits associated with the use of natural gas for fleet trucks:
- Natural gas vehicles can save a company 30 – 50% of its fuel costs.
- Central fuel and maintenance make fleets highly conductive to CNG fueling infrastructure.
- While it is true that Florida currently has relatively few natural gas fueling stations in place, several companies offer no-cost or low-cost options for construction and maintenance of such infrastructure.

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[6] Id. at 17-18.
[7] Id.
[8] Id.
[9] Id.
[10] See Green Truck Association website for information on CNG and LNG: http://www.greentruckassociation.com/TechnicalResources/SustainableTechnologiesforWorkTrucks/NaturalGasCNGandLNG/tabid/129/Default.aspx.
[11] Naturalgas.org website: http://www.naturalgas.org/environment/naturalgas.asp. Retrieved February 15, 2013.

- Maintenance on a natural gas vehicle is no more problematic and often easier than traditional diesel trucks. Mechanics can be trained quickly and easily for this purpose.
- The cost of converting to CNG is decreasing. In addition, such costs are offset by savings in direct fuel costs and possible financial incentives for the purchase of natural gas vehicles.[12]

The FNGVC study recommends resolving the chicken vs. egg dilemma by providing incentives to convert to CNG-powered truck fleets, thereby creating a demand for the re-fueling stations and producing significant stimulation of Florida's economy. In a February 7, 2013, memo[13] by the FNGVC, discussing an update of the 2012 study, the coalition indicates that "…new research reflects a dramatic increase in the positive economic impact of an incentive program targeted toward commercial fleets in one quarter of the previously calculated time: over 20,000 new jobs, $715 million in new wages, and $2.5 billion in economic output – all over a 5-year period rather than a 20-year period."[14] (The scenario assumed a $12 million per year incentive for 5 years with $30,000 for large trucks and $15,000 for small trucks.)

Existing Federal Incentives for Alternative Fuel under Federal Law

Research reveals existing federal incentives and laws related to natural gas.[15] Among the incentives and laws are the:

- *Alternative Fuel Infrastructure Tax Credit* - Fueling equipment for natural gas as defined in the bill and installed between January 1, 2006, and December 31, 2013, is eligible for a tax credit of 30% of the cost, not to exceed $30,000. If qualified equipment in installed at multiple sites, the fuel station owner may apply the $30,000 credit towards each location.[16] Unused credits that qualify as general business tax credits, as defined by the Internal Revenue Service (IRS), may be carried backward one year and carried forward 20 years.
- *Alternative Fuel Excise Tax Credit* - A tax incentive is available for alternative fuel that is sold for use or used as a fuel to operate a motor vehicle. A tax credit in the amount of $0.50 per gallon is available for sale of alternative fuels as defined in the bill. For an entity to be eligible to claim the credit they must be liable for reporting and paying the federal excise tax on the sale or use of the fuel in a motor vehicle. Tax exempt entities such as state and local governments that dispense qualified fuel from

[12] FNGVC website: http://www.fuelforjobs.com/wp-content/uploads/2012/03/Executive-Summary-FINAL1.pdf. Retrieved February 15, 2013.
[13] On file with the Senate Transportation Committee.
[14] Certain assumptions in the original study appear to raise questions. For example, the original study on page 25 cites a 1.6 increase in "construction and ongoing clean fuel technology jobs for every truck provided as part of an alternative fuel network. The clean fuel technology jobs are related to vehicles (production, training, service, and operation), stations (construction, maintenance, and ongoing operation), facilities (upgrades of maintenance facilities for CNG as required by code), and exploration and production (gas demand met by local production)." However, this figure is based not just on operation of the vehicle, but on manufacturing of the truck, development of the fuel network (including temporary construction jobs), and exploration and production. Given that manufacture of natural gas-powered vehicles and exploration or production of natural gas has no significant presence in Florida, it is unclear whether the projected economic impacts will be realized within the State of Florida.
[15] U.S. Department of Energy: http://www.afdc.energy.gov/laws/laws/US/tech/3253. Retrieved February 17, 2013.
[16] A tax credit of up to $1,000 is also available to consumers who purchased qualified residential fueling equipment prior to December 31, 2013.

an on-site fueling station for use in vehicles qualify for the incentive. Eligible entities must be registered with the Internal Revenue Service (IRS). The incentive must first be taken as a credit against the entity's alternative fuel tax liability; any excess over this fuel tax liability may be claimed as a direct payment from the IRS. This tax credit is applicable to fuel sold or used between January 1, 2005, and December 31, 2013.[17]

- *Tax credit for purchase of alternative fuel vehicles* - Federal law at one time also provided for an income tax credit for the purchase of a new, dedicated alternative fuel vehicle of 50 percent of the incremental cost of the vehicle. An additional 30 percent was allowed if the vehicle met certain tighter emission standards. Ranging from $2,500 to $32,000 depending on the size of the vehicle, the credit was effective after December 31, 2005, and expired on December 31, 2010. Congress did not extend the credit, but it did enact a new bonus depreciation provision that allowed companies to expense 100 percent of the cost of new capital equipment. The 100% depreciation level applied to equipment placed in service after September 8, 2010 through 2011. For 2012 and through 2013, the bonus depreciation level is at 50 percent.[18]

Current State Taxation of Gasoline, Diesel, and Alternative Fuel

Motor Fuel

Section 206.41(1)(a), F.S., currently imposes an excise or license tax of 2 cents upon each net gallon of specified motor fuel,[19] designated as the "constitutional gas tax." Section 206.41(1), also imposes on each net gallon of motor fuel an additional 1 cent, designated as the "county fuel tax;" an additional 1 cent, designated as the "municipal fuel tax;" an additional tax, designated as the State Comprehensive Enhanced Transportation System Tax (SCETS), at a rate determined as specified in paragraph (f); and an additional tax, designated as the "fuel sales tax," at a rate determined as specified in paragraph (g). An additional tax of 1 cent per net gallon may be imposed by each county, designated as the "ninth-cent fuel tax," as well as an additional tax of between 1 and 11 cents per net gallon, designated as the "local option fuel tax." The SCETS tax rate on motor fuel for 2013 is 5.9 cents and the fuel sales tax rate on motor fuel for 2013 is 12.9 cents.[20]

Diesel Fuel

Section 206.87(1)(a), F.S., currently imposes an excise tax of 4 cents upon each net gallon of specified diesel fuel,[21] except for alternative fuels, which are subject to the fee imposed by s. 206.877, F.S. Section 206.87(1), F.S., also imposes on each net gallon of diesel fuel subject to

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[17] Fishkind notes that the "fuel-excise tax credit has been one of the most successful programs in terms of driving large deployments of natural gas trucks. In addition, unlike grant funding, the value of a federal tax credit is not considered taxable income to a private entity. It is therefore equivalent to a cash rebate, or grant funding at 100% of the value. When the Federal Tax Credits are combined, expedited payback periods of less than two years can be realized on the incremental investment required for a natural gas truck." Fishkind & Associates, *Economic Impact of Incentives to Facilitate Compressed Natural Gas Vehicles in Florida*, August 1, 2012, pp. 23-24.

[18] NGVAmerica, citing Pub. L. no. 111-312 (2010) and Pub. L. no. 112-240 (2012): http://ngvamerica.org/incentives/federalTax.html. Retrieved February 17, 2013.

[19] Section 206.01(9), F.S., defines "motor fuel" or "fuel" to mean "all gasoline products or any product blended with gasoline or any fuel placed in the storage supply tank of a gasoline-powered motor vehicle."

[20] Florida Department of Revenue website: http://dor.myflorida.com/dor/tips/pdf/12b05-02_chart.pdf, *2013 Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates*, retrieved February 12, 2013.

[21] Section 206.86(1), F.S., defines "diesel fuel" to mean "all petroleum distillates commonly known as diesel #2, biodiesel, or any other product blended with diesel or any product placed into the storage supply tank of a diesel-powered motor vehicle.

the tax, an additional 1 cent tax known as the "ninth-cent fuel tax;" an additional 6 cents tax known as the "local option fuel tax;" an additional tax, designated as the State Comprehensive Enhanced Transportation System Tax (SCETS), at a rate specified in paragraph (d); and an additional "fuel sales tax," at a rate determined as specified in paragraph (e). The SCETS Tax rate on diesel for 2013 is 7.1 cents and the fuel sales tax rate on diesel for 2013 is 12.9 cents.[22]

Section 212.0501(5), F.S., provides that diesel fuel upon which the fuel taxes pursuant to ch. 206, F.S., have been paid is exempt from the tax on sales, use, and other transactions imposed by ch. 212, F.S.

With reference to the SCETS tax, note that s. 206.608, F.S., after deduction of the specified service charge and administrative costs, requires that 99.35 percent of the proceeds of the SCETS tax levied on *motor fuel* be transferred to State Transportation Trust Fund (STTF),[23] and *all of the proceeds from the SCETS tax on diesel fuel* be transferred to the STTF. These funds may be used only for transportation projects in the adopted work program in the Florida Department of Transportation (FDOT) district in which the tax proceeds are collected and, to the maximum extent feasible, shall be programmed for use in the county where collected.

Alternative Fuel

Section 206.86(4), F.S., currently defines "alternative fuel" to mean "any liquefied petroleum gas product or compressed natural gas product or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance." The term includes any form of liquefied petroleum gas (*i.e.*, natural gas, butane gas, propane gas) or compressed natural gas. Section 206.86(5), F.S., currently defines "natural gasoline" as "a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel. Alternative fuel is subject to the sales tax under ch. 212, F.S.

Section 206.877, F.S., requires owners or operators of motor vehicles licensed in this state which are powered by alternative fuels to pay, in lieu of the 4 cents per gallon excise tax on diesel fuel, an annual decal fee on each such motor vehicle in accordance with the rate schedule specified in that paragraph. The taxes imposed on diesel fuel under s. 206.87, F.S., apply to purchases of alternative fuels by operators of vehicles licensed in other states and other vehicles that do not have the proper decal. In addition, the sale of alternative fuel is generally subject to sales tax imposed under ch. 212, F.S.[24]

A person fueling vehicles from his or her own facilities must, in addition, pay a local alternative fuel fee in lieu of each cent of excise tax levied by a county under s. 206.87(1)(b) and (c), F.S. Those who do not operate their own fueling facilities must pay the appropriate local fee for the particular county where the vehicles are predominantly used.

Generally, the Department of Revenue (DOR) issues an annual decal to be attached to the upper right corner of the front windshield on the motor vehicle for which the decal is issued, and it is unlawful to operate a vehicle that is required to have a decal unless the vehicle is titled outside

[22] Florida Department of Revenue website: http://dor.myflorida.com/dor/tips/pdf/12b05-02_chart.pdf, *2013 Florida Fuel Tax, Collection Allowance, Refund, and Pollutants Tax Rates*, retrieved February 12, 2013.
[23] The Agricultural Emergency Eradication Trust Fund receives 0.35 percent of the proceeds of the SCETS tax on motor fuel.
[24] Fla. Admin. Code R. 12A-1.059.

the state. Each sale of alternative fuel placed in a motor vehicle displaying a decal must be documented on an invoice that includes the decal number, the motor vehicle license number, and the number of gallons placed into the motor vehicle. Any person who puts or causes to be put liquefied petroleum gas or compressed natural gas into a motor vehicle required to have a decal is guilty of a first degree misdemeanor unless the vehicle has the required attached decal. A state or local governmental agency is not required to obtain a decal and pay the annual decal fee for motor vehicles powered by alternative fuel and operated by the state or local governmental agency.

Section 206.89, F.S., provides that a person may not act as a retailer of alternative fuel unless he or she holds a valid retailer of alternative fuel license issued by DOR, and any person acting as such who does not hold a license must pay a penalty of 25% of the tax assessed on the total purchases. A filing fee of $5 is required at the time of filing an application for a license. Terminal suppliers, importers, and wholesalers must also provide a specified bond that must be filed with DOR to ensure payment to the state of the amount of tax, any penalties, and interest. Every person who operates as a retailer of alternative fuel, except those licensed under ch. 206, F.S., including without limitation a state agency, federal agency, municipality, county, or special district, must report monthly to DOR and pay tax on all fuel purchases.

The revenues from the state alternative fuel fees imposed by s. 206.877, F.S., are deposited into the State Alternative Fuel User Fee Clearing Trust Fund, and the revenues from the local alternative fuel fees imposed in lieu of s. 206.87(1)(b) or (c), F.S., are deposited into the Local Alternative Fuel User Fee Clearing Trust Fund, as provided in s. 206.879, F.S. After deducting the specified service charge, the proceeds from state alternative fuel fees are distributed as follows:

- one-half of the proceeds to the State Transportation Trust Fund (STTF);
- 50% of the remainder to the State Board of Administration for distribution in accordance with Article XII, Section (9)(c), of the Florida Constitution (first call on the proceeds is to meet debt service requirements, if any, on local bond issues backed by the tax proceeds with the balance credited to the counties' transportation trust funds);
- 25% of the remainder to the Revenue Sharing Trust Fund for Municipalities (distributed in accordance with criteria contained in ch. 218, F.S.); and
- the remaining 25% distributed in accordance with s. 206.60(1), F.S. (to the counties for specified public transportation purposes).

The revenues from the local alternative fuel fees imposed in lieu of s. 206.87(1)(b) or (c), F.S., are to be deposited into the Local Alternative Fuel User Fee Clearing Trust Fund. After deducting specified service charges, the proceeds are returned monthly to the appropriate county.

Annual distributions to the STTF from the State Alternative Fuel User Fee Clearing Trust Fund reported by the Florida Department of Transportation for the current year and the previous 10 fiscal years are as shown below, suggesting an upward trend in the sale of alternative fuel decals in the more recent past.

Alt. Fuel Tax to STTF	
2003	$124,567.28
2004	$141,906.37
2005	$115,870.65
2006	$168,235.78
2007	$ 77,635.60
2008	$ 49,039.66
2009	$ 39,480.07
2010	$ 33,758.92
2011	$ 32,915.48
2012	$ 42,045.66
2013	$ 54,217.96

III. Effect of Proposed Changes:

Section 1: Amends s. 206.86, F.S., to remove the definitions of "alternative fuel" and "natural gasoline." Definitions are being provided in a new part V of ch. 206, F.S.

Section 2: Amends s. 206.87(1)(a), F.S., to remove the exception from the 4-cents-per-net-gallon excise tax for alternative fuels subject to the fee imposed by s. 206.877, F.S. A natural gas fuel tax structure is being provided in a new part V of ch. 206, F.S.

Section 3: Repeals s. 206.877, F.S., relating to payment of annual decal fees in lieu of the tax imposed by s. 206.87, F.S., for motor vehicles fueled by liquefied petroleum gas or compressed natural gas. A natural gas fuel tax structure is being provided in a new part V of ch. 206, F.S.

Section 4: Repeals s. 206.89, F.S., relating to retailer of alternative fuel licenses, applications for such licenses, DOR issuance, and monthly reports and payment of tax on all fuel purchases. The provisions of s. 206.89, F.S., are being moved to a new part V of ch. 206, F.S.

Section 5: Amends s. 206.91(1), to remove from required monthly reports to DOR information on inventories, purchases, nontaxable disposals, and taxable sales in gallons of alternative fuel; and to make editorial changes. These reporting requirements are being moved to a new part V of ch. 206, F.S., to be applicable for natural gas fuel.

Section 6: Requests the Division of Law Revision and Information to create part V of ch. 206, F.S., consisting of ss. 206.9951 – 206.998, entitled "NATURAL GAS FUEL."

Section 7: Creates s. 206.9951, F.S., entitled "Definitions," to define terms as follows:

- "Motor fuel equivalent gallon" means the volume of natural gas fuel it takes to equal the energy content of one gallon of fuel.
- "Natural gas fuel" means any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. The term includes without limitation all forms of fuel commonly or commercially know or sold as

natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas. (This definition is all but identical to the definition of "alternative fuel" being deleted from s. 206.86, F.S.)

- "Natural gas fuel retailer" means any person who sells natural gas fuel to be placed into the fuel supply system of a motor vehicle or used to propel any form of vehicle, machine, or mechanical contrivance.
- "Natural gasoline" is a liquid hydrocarbon that is produced by natural gas and must be blended with other liquid petroleum products to produce motor fuel. (This definition is identical to the definition of "natural gasoline" being deleted from s. 206.86, F.S.)
- "Person" means a natural person, corporation, copartnership, firm, company, agency, or association; a state agency, or a political subdivision of the state.

Section 8: Creates s. 206.9952, F.S., entitled "Application for license as a natural gas fuel retailer," to provide that it is unlawful for any person to engage in business as a natural gas fuel retailer within this state unless he or she is the holder of a valid license issued by DOR to engage in such business; to exempt from licensure a person who has facilities for placing natural gas fuel into the supply system of an internal combustion engine fueled by individual portable containers of 10 gallons or less, provided that the fuel is only used for exempt purposes; to require any person acting as a natural gas fuel retailer without holding a valid natural gas fuel retailer license to pay a penalty of 25% of the tax assessed on the total purchases made during the unlicensed period; to require a person to file an application and a bond with DOR on a form prescribed by DOR and to prohibit DOR from issuing a license unless the application is accompanied by a bond; to authorize DOR, if evidence warrants, to refuse to issue a license when a natural gas fuel retailer license application is filed by a person whose previous license was canceled for cause or when DOR believes that such application was not filed in good faith or is filed by another person as a subterfuge for the actual person in interest whose previous license has been canceled; to provide that a natural gas fuel retailer license issued by DOR remains in effect so long as the natural gas fuel retailer is in compliance with this part; to prohibit assigning a license and provide that the license is valid only for the natural gas fuel retailer in whose name the license is issued; to require the license be displayed conspicuously in the principal place of business for which the license was issued; to require each person who operates as a natural gas fuel retailer, except a state or federal agency or a political subdivision licensed under this chapter, to report monthly to DOR and pay a tax on all natural gas fuel purchases; to require a $5 license fee for the license application; to require annual renewal of each license by submitting a reapplication and the $5 license fee to DOR; and to require payment of the license fee to DOR for deposit into the General Revenue Fund. These revisions primarily lift the provisions of s. 206.89, F.S., which are being repealed, and place them in the new part V of ch. 206, F.S.

Section 9: Creates s. 206.9955, entitled "Levy of natural gas fuel tax," to establish the motor fuel equivalent gallon for a compressed natural gas gallon (5.66 pounds, or per each 126.67 cubic feet), for a liquefied natural gas gallon (6.22 pounds), and for a liquefied petroleum gas gallon (1.35 gallons); to impose an excise tax of 4 cents upon each motor fuel equivalent gallon of natural gas fuel; to impose an additional 1 cent tax , designated as the "ninth-cent fuel tax;" to impose an additional 6 cents tax, designated as the "local option fuel tax;" to impose an additional tax designated as the "State Comprehensive Enhanced Transportation System Tax," determined by DOR beginning January 1 for the following 12-month period, rounded to the nearest tenth of a cent, by adjusting the initially established rate of 6.9 cents per gallon by the Consumer Price Index; to impose an additional tax for the privilege of selling natural gas fuel, designated as the "fuel sales tax," determined by DOR beginning January 1 for the following 12-month period, rounded to the nearest tenth of a cent, calculated by adjusting the initially established tax rate of 12.9 cents per gallon by the Consumer Price Index and authorizing DOR to adopt rules and publish forms to administer the fuel sales tax; and to impose the 4 cents excise tax and additional taxes on natural gas fuel when it is placed into the fuel supply tank of a motor vehicle or used to propel any form of vehicle, machine, or mechanical contrivance, and to impose liability for payment of the identified taxes on the person selling the fuel to the end user, where the fuel is placed into the fuel supply tank of a motor vehicle or used to propel any form of vehicle, machine, or mechanical contrivance. These taxes replace the annual decal fees in current s. 206.877, F.S. Natural gas fuel will be taxed in the same fashion as diesel fuel, except that natural gas fuel remains subject to the sales tax under ch. 212, F.S.

<u>Section 10:</u> Creates s. 206.996, entitled "Monthly reports by natural gas fuel retailers; deductions," to require each natural gas fuel retailer, for the purpose of determining the amount of taxes imposed by s. 206.9955, F.S., to file monthly electronic reports with DOR showing information on inventory, purchases, nontaxable disposals, and taxable sales in gallons of natural gas fuel for the preceding month, no later than the 20th day of each month; to provide that if the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, a return must be accepted if it is electronically filed on the next succeeding business day; to require the reports to include, or be verified by, a written declaration stating that such report is made under penalties of perjury; to require the natural gas fuel retailer to deduct from the amount of taxes shown by the report to be payable an amount equivalent to .67% of the taxes on natural gas fuel imposed by s. 206.9955(2)(a) and (e) [the 4 cents excise tax and the fuel sales tax] to compensate the retailer for services rendered and expenses incurred in complying with part V; to prohibit the deduction unless the natural gas fuel retailer has allowed 50% of the allowance provided to a purchaser that has a valid wholesaler or terminal supplier license; to prohibit the deduction unless payment of applicable taxes is made on or before the 20th day of the month; to prohibit any construction that would authorize a deduction from the constitutional gas tax or the fuel sales tax; to require each natural gas fuel retailer to pay DOR the full amount of natural gas fuel taxes for the preceding month, less the amount allowed the retailer for services and expenses, upon the electronic filing of the monthly report; to provide that DOR may authorize a quarterly return and payment of taxes when the taxes remitted by the retailer for the preceding quarter did not exceed $100 and may authorize a semiannual return and payment when the taxes remitted for the preceding 6 months did not exceed $200; to authorize an additional retailer deduction of 1.1 percent of the taxes imposed under s. 206.9955(2)(b) and (c) [the ninth-cent fuel tax and the local option fuel tax] on account of services and expenses incurred in complying with part V; and to prohibit the deduction unless payment of the tax is made on or before the 20th day of the month. These requirements are virtually identical to those currently contained in s. 206.91, F.S., from which reference to alternative fuel is removed.

<u>Section 11:</u> Creates s. 206.9965, F.S., to authorize the purchase of tax-exempt natural gas fuel from natural gas fuel retailers when the fuel is used or purchased for:

- Exclusive use by the United States or its departments or agencies, defined to mean the consumption by the United States or its departments or agencies of the natural gas fuel in a motor vehicle or used to propel any form of vehicle, machine, or mechanical contrivance;

- Use for an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance for agricultural purposes as defined in s. 206.41(c), F.S. [agricultural, aquacultural, commercial fishing, or commercial aviation purposes];
- Uses as provided in s. 206.874(3), F.S. [dyed diesel fuel], and use by vehicles operated by state and local government agencies;
- Individual use resulting from residential refueling devices located at a person's primary residence; and
- Purchases of natural gas fuel between licensed natural gas fuel retailers. A natural gas fuel retailer that sells tax-paid natural gas fuel to another natural gas fuel retailer is authorized to take a credit on its monthly return or may file a claim for refund with the Chief Financial Officer pursuant to s. 215.26, F.S. ["Repayment of funds paid into the State Treasury through error"]. All sales of natural gas fuel between natural gas fuel retailers must be documented on invoices or other evidence of the sale of such fuel and the seller must retain a copy of the purchaser's natural gas fuel retailer license.

Section 12: Transfers and renumbers current s. 206.879, F.S., as s. 206.997, F.S.; revises and updates provisions governing distribution of state alternative fuel fee proceeds (but does not change the distribution shares currently in place for the State Alternative Fuel User Fee Clearing Trust Fund); and repeals the provisions requiring revenues from the local alternative fuel fees imposed in lieu of s. 206.87(1)(b) or (c), F.S., into the Local Alternative Fuel User Fee Clearing Trust Fund, to be returned monthly to the appropriate county after deducting the required service charge.

Section 13: Terminates the Local Alternative Fuel User Fee Clearing Trust Fund within DOR; directs DOR to pay any outstanding debts or obligations of the terminated fund as soon as practicable; and directs the Chief Financial Officer to close out and remove the terminated fund from various state accounting systems.

Section 14: Creates s. 206.9975, F.S., entitled "Natural gas fuel vehicle investment program," effective July 1, 2013, to require 2% of the proceeds of the SCETS Tax on each gallon of motor fuel in each county, on each gallon of diesel fuel in each county, and on each motor fuel equivalent gallon of natural gas fuel to be deposited into the General Inspection Trust Fund under s. 570.20, F.S.; to require the funds collected to be used to provide rebates for the incremental cost or purchase of natural gas fuel vehicles; to require the Department of Agriculture and Consumer Services to initiate rulemaking by January 1, 2014, to establish guidelines for the rebate program; and to provide for expiration of this section on July 1, 2018.

The two percent portion of the SCETS tax on each gallon of motor fuel and diesel fuel, and on each motor fuel equivalent gallon of natural gas, will be used to fund the rebate program and will likely not be used to fund transportation projects in the FDOT district in which the proceeds are collected or, to the maximum extent feasible, in the county where collected, as currently required by s. 206.608, F.S. Two percent of the SCETS tax currently deposited into the STTF will be diverted away from publicly-funded transportation projects in the county where the taxes were collected to purchase vehicles for individuals and private companies. (Note that nothing in the bill appears to preclude rebates to local governments.)

In addition, the two percent portion of the SCETS tax on motor and diesel fuel to be used to fund the rebate program are already anticipated by FDOT and are already factored into FDOT's development of its work program for the next five years. Diversion of those taxes away from the STTF may result in disruption of the work program and possible project deferrals.

Further, the language provides no direction or guidance to the Department of Agriculture and Consumer Services for the purpose of promulgating rules or for general implementation of the program. For example, nothing in the language creates accountability for actual job creation or economic development in order to establish eligibility for a rebate.

Section 15: Creates s. 206.998, entitled "Applicability of specified sections of parts I and II" of ch. 206, F.S., provides that the specified sections are applicable to the natural gas fuel tax; and provides that the specified statutes do not apply in the event of conflict with the new part V of ch. 206, F.S.

Section 16: Amends s. 212.055(2)(d), F.S., relating to the local government infrastructure surtax, to include "installation of systems for natural gas fuel as defined in s. 206.9951" in the definition of "energy efficiency improvement" and make a grammatical change. This allows counties to use surtax revenues as loans, grants, or rebates to private property owners who install natural gas fueling systems.

Section 17: Provides an effective date of January 1, 2014, except as otherwise expressly provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet completed its analysis of the fiscal impact of this bill. However, according to FDOT, the bill diverts $74.9 million in cash from the STTF which would otherwise be used for funding the five-year work program of transportation projects throughout the state, resulting in a $101.9 million commitment impact to the work program and the potential deferral of currently-programmed transportation projects.

B. Private Sector Impact:

Persons participating in the natural gas fuel vehicle investment program will experience positive fiscal impacts in direct proportion to the amount of any rebate used to purchase natural gas vehicles. The private sector would experience the identified environmental benefits.

C. Government Sector Impact:

The government sector would experience the identified environmental benefits.

VI. Technical Deficiencies:

If the intent is to mirror diesel taxes, the “6.9” cents on line 248 should be changed to “7.1.”
The word “as” should be deleted from line 290 for grammatical accuracy.
The words “and local” should be deleted from the title of the re-numbered s. 206.997, F.S., on line 355, as well as striking the “s” from the word “funds” in the title.
The words “from the” are duplicated on line 358.

VII. Related Issues:

The Department of Agriculture and Consumer Services is directed to initiate rulemaking by January 1, 2014, to establish guidelines for the natural gas fuel vehicle investment rebate program. The bill may not provide adequate standards and guidelines for rule development.

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.