

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: PCS/SB 1320 (437538)

INTRODUCER: Appropriations Subcommittee on Finance and Tax and Senator Stargel

SUBJECT: Tax Administration

DATE: April 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>AFT</u>	Recommend: Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1320 amends various statutes relating to the administration of taxes. The bill contains recommendations made by the Department of Revenue (Department) and approved by the Cabinet, which are designed to reduce the burden on taxpayers.

The bill eliminates:

- The fees charged for sales and use tax registration; fuel and pollutants dealers licensing; perchloroethylene registration; dry cleaning tax registration; and fuel tax refunds;
- The requirement that circuit court judges report to the Department the names of decedents and estates in probate unless the Department is a creditor of the estate; and
- The requirement that vending machine operators post a notice stating that machines without a posted notice may be reported using a toll-free number and that someone reporting noncompliance may be eligible for a reward, and the \$250 associated penalty for not posting the notice.

Additionally, the bill:

- Allows a tax collection service provider to waive a reemployment tax penalty imposed for failure to file certain quarterly reports electronically if the tax collection service provider finds a penalty to be inequitable;
- Extends due dates for annual filings and installment payments when the due date falls on a weekend or a holiday;

- Provides specific guidelines for the notification, adoption, and expiration of local ordinances imposing a tax on motor and diesel fuel prior to July 2002; and
- Repeals several obsolete provisions of chapter law that grant emergency rulemaking authority to the Department of Revenue.

The Revenue Estimating Conference estimates this bill will reduce General Revenue Fund receipts by \$100,000 in Fiscal Year 2017-2018 and \$200,000 annually thereafter.¹

This act takes effect upon becoming a law, while most the fee eliminations and vending machine notice provisions proposed in the bill take effect January 1, 2018.

II. Present Situation:

The present situation for each issue is explained below in the Effect of Proposed Changes section.

III. Effect of Proposed Changes:

Sections 1, 22, 23. Elimination of Reporting Requirements

Present Situation: Section 198.30, F.S., requires circuit court judges to report the names of decedents and other information on estates in probate to both the Department and the Agency for Health Care Administration (AHCA). In addition, personal representatives are required to provide certain information to the Department and AHCA pursuant to s. 733.2121(3), F.S. Due to estate and intangible tax law changes, the Department no longer needs the information circuit court judges provide and, in most circumstances, does not need the information supplied by personal representatives.²

Proposed Change: The bill amends s. 198.30, F.S., to eliminate the requirement to provide information to the Department. Therefore, this information will be provided only to the AHCA. Additionally, s. 733.2121, F.S., is amended to require a notice of creditors to be served on the Department only when the Department is a creditor of the estate.

Sections 2, 3, 4, 5, 6, 7, 9, 10, 11, and 24. Fuel and Pollutants License Fee Elimination

Present Situation: Florida law imposes a \$30 license tax on persons applying for an annual fuel or pollutants license and a \$5 annual fee to obtain a license as a natural gas fuel retailer.³ The Department issues the taxpayer a receipt, which must be posted on display in public view. All money derived from the license taxes pursuant to ss. 206.02, 206.021, 206.022, and 206.404, F.S., must be paid into the State Treasury to the credit of the General Revenue Fund.⁴

¹ Office of Economic and Demographic Research, The Florida Legislature, *Revenue Estimating Conference, Tax Administration*, (Jan. 1, 2017), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/pdf/page1-10.pdf> (last visited April 10, 2017).

² Department of Revenue, *Department of Revenue 2017 Legislative Concepts*, (Sept. 09, 2016) (on file with the Senate Appropriations Subcommittee on Finance and Tax).

³ See ch. 206, F.S.

⁴ Section 206.406, F.S.

Proposed Change: The bill eliminates the \$30 annual license tax required for a fuel or pollutants license as well as the \$5 annual fee to obtain a natural gas fuel license. Additionally, s. 206.405, F.S., the receipt for payment of the license tax, and s. 206.406, F.S., the disposition of license tax funds, are repealed. The bill amends s. 206.998, F.S., to conform to the repealed sections.

These sections are effective January 1, 2018.

Section 8. Fuel Tax Refund Fee Elimination

Present Situation: Florida law allows certain taxpayers to obtain quarterly refunds of a portion of the tax paid on fuel purchases.⁵ These taxpayers must purchase the fuel for use in agriculture, commercial fishing, school buses, mass public transportation, or another authorized purpose.⁶ The Department is required to deduct a \$2 fee from each of these quarterly tax refunds, which is deposited into the General Revenue Fund.⁷

Proposed Change: The bill eliminates the \$2 deduction from the quarterly fuel tax refunds made to these taxpayers.

This section is effective January 1, 2018.

Section 12. Elimination of Vending Machine Notice Requirement

Present Situation: Sales tax is due on the sale of food, beverages, and most items purchased through vending machines in Florida. Vending machine owners must display a notice on each vending machine which provides that machines without a posted notice may be reported using a toll-free number and that a person who reports noncompliance may be eligible for a reward. Florida law imposes a \$250 penalty for each vending machine that does not display the notice.⁸

Proposed Change: The bill eliminates the required notice and associated penalty.

This section is effective January 1, 2018.

Sections 13 and 14. Sales and Use Tax Registration Fee Elimination

Present Situation: Florida law imposes a \$5 fee on each business location that registers with the Department to collect, report, and remit sales and use tax. However, the \$5 registration fee is waived if a business applies online through the Department's online registration process.⁹ Section 212.0596, F.S., provides that DOR may establish procedures to provide for the waiver of registration fees from unregistered persons who make mail order purchases for which tax is required to be remitted.

Proposed Change: The bill eliminates the \$5 application fee.

⁵ Section 206.41(5), F.S.

⁶ Section 206.41(4), F.S.

⁷ Section 206.41(5)(c)2., F.S.

⁸ Section 212.0515, F.S.

⁹ Section 212.18

These sections are effective January 1, 2018.

Sections 15 and 16. Ninth-cent and Local Option Dates

Present Situation: Chapter 336, F.S., provides clear direction on the administration of rate changes for ninth-cent and local option fuel taxes imposed after July 1, 2002. For taxes imposed prior to July 2002, however, the statutes do not clearly identify adoption dates for ordinances or the length of time the adopted ordinance will remain in effect.

Proposed Change: The bill provides specific guidelines and clarification for the notification, adoption, and expiration of the ninth-cent fuel taxes imposed prior to July 2002. For those tax levies, any re-imposition would be required to be levied before July 1 to allow the Department time to make any necessary changes to distribution programs.

Section 17. Dry Cleaning Tax Registration Fee Elimination

Present Situation: Dry cleaning facilities are required to register with the Department and pay a \$30 fee.¹⁰ If a facility registers electronically, the Department waives the \$30 fee as authorized by statute. The majority of these registrations are electronic and no fee is charged.¹¹

Proposed Change: The bill eliminates the \$30 registration fee for all registrations.

This section is effective on January 1, 2018.

Section 18. Perchloroethylene Registration Fee Elimination

Present Situation: Any person producing, importing, or selling perchloroethylene (perc) is required to register with the Department and pay a \$30 fee.¹² Additionally, the person must also register for a pollutants license that requires a \$30 license tax. The Department has allowed perc registrants to designate their perc registration on the pollutants registration and has not required a separate application and fee for a person dealing in perc.¹³

Present Change: The bill repeals the \$30 perc registration fee.

Sections 19 and 20. Extension of Annual and Installment Due Dates

Present Situation: Due dates for reemployment tax installment payments and annual filings are provided for by statute and do not allow for additional time when the due dates fall on a Saturday, Sunday, or holiday. Quarterly filing due dates are provided for by rule and have provisions allowing later due dates when the date falls on a weekend or holiday.¹⁴

¹⁰ Section 376.70, F.S.

¹¹ See *supra* note 2.

¹² Section 376.75, F.S.

¹³ See *supra* note 2.

¹⁴ Sections 443.131 and 443.141, F.S.

Proposed Change: The bill allows for annual filings and installment payments to be submitted the next day that is not a Saturday, Sunday, or holiday or any other day when the United States Postal Service is closed.

Section 21. Reemployment Tax Penalty Waiver

Present Situation: Florida law requires certain employers to file their Employers Quarterly Report electronically.¹⁵ When employers fail to file electronically as required, current law imposes a penalty. The tax collection service provider (the department) has no flexibility to waive the penalty.

Proposed Change: The bill allows a tax collection service provider (the department) to waive the penalty imposed for a failure to file electronically if the tax collection service provider finds a penalty to be inequitable. Grounds for inequity include the death or serious illness of the person who prepares and files the report, destructions of the business records by fire or another casualty, or unscheduled and unavoidable computer downtime.

Section 25. Repeal of Obsolete Rulemaking authority

Present Situation: The Department of Revenue has the authority to adopt rules to enforce the laws it administers.¹⁶ Section 125.54(4) provides emergency rulemaking authority to an agency if the agency finds that an immediate danger to the public health, safety, or welfare requires emergency action. Emergency rules adopted by an agency are temporary and not renewable, except when the agency has initiated rulemaking to adopt rules addressing the subject of the emergency rule.¹⁷

Legislation often contains an explicit recognition of the need for emergency rules without a mechanism to repeal such authority when the emergency rulemaking process becomes obsolete.

Proposed Change: The bill repeals several obsolete provisions of chapter law that grant emergency rulemaking authority to the Department of Revenue.

Section 26. Effective Date

The bill takes effect upon becoming a law, except as otherwise expressly provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁵ Section 443.163, F.S.

¹⁶ See, e.g., s. 212.18(2) and s. 220.51, F.S.

¹⁷ Section 120.54(4)(c), F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates this bill will reduce General Revenue Fund receipts by \$100,000 in Fiscal Year 2017-2018 and \$200,000 annually thereafter.¹⁸

B. Private Sector Impact:

The repeal of various licensing and registration fees will reduce costs businesses pay and reduce the administrative costs of completing the paperwork associated with the fees.

C. Government Sector Impact:

The Department of Revenue expects an insignificant operational impact from the provisions of this bill.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 198.30, 206.02, 206.021, 206.022, 206.03, 206.045, 206.41, 206.9943, 206.9952, 206.998, 206.9865, 212.0515, 212.0596, 212.18, 336.021, 336.025, 376.70, 376.75, 443.131, 443.141, 443.163, and 733.2121.

This bill reenacts section 733.701 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 206.405 and 206.406.

IX. 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 13, 2017:

¹⁸ See *supra* note 1.

¹⁹ Department of Revenue, *2017 Legislative Bill Analysis* (March 7, 2017) (on file with the Senate Judiciary Committee).

The committee substitute repeals several obsolete provisions of chapter law that grant emergency rulemaking authority to the Department of Revenue.

B. Amendments:

None.

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