

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/SB 1332

INTRODUCER: Community Affairs Committee and Senator Hooper

SUBJECT: Towing and Immobilizing Vehicles and Vessels

DATE: January 21, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Ryon	CA	Fav/CS
2.	_____	_____	IS	_____
3.	_____	_____	RC	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1332 requires counties and municipalities to establish maximum rates for the towing and immobilization of vehicles and vessels and prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators or towing businesses. The bill provides that an authorized wrecker operator or tow business may impose and collect an administrative fee or charge against the owner of a vehicle or vessel on behalf of a county or municipality and is only required to remit the fee or charge to the county or municipality after it has been collected. The bill provides that a wrecker operator or towing business who recovers, removes, or stores a vehicle or vessel must have a lien on the vehicle or vessel that includes the value of the reasonable administrative fee or charge imposed by a county or municipality.

The bill exempts certain counties with towing or immobilization licensing, regulatory, or enforcement programs as of January 1, 2020, from the prohibition on imposing a fee or charge on an authorized wrecker operator or a towing business.

The bill prohibits a municipality or county from enacting an ordinance or rule requiring an authorized wrecker operator or towing business to accept credit cards as a form of payment. The bill may have an indeterminate fiscal impact on local governments.

The bill takes effect October 1, 2020.

## II. Present Situation:

### County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.<sup>1</sup> After the establishment of such contract(s), the county or municipality must create a “wrecker operator system” to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods.<sup>2</sup> Any wrecker operator that is included in the wrecker operator system is an “authorized wrecker operator” in the jurisdiction, while any wrecker operation not included is an “unauthorized wrecker operator.”<sup>3</sup>

Unauthorized wrecker operators are not permitted to initiate contact with the owner or operator of a wrecked or disabled vehicle.<sup>4</sup> If the owner or operator initiates contact, the unauthorized wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- His or her full name;
- Driver license number;
- That he or she is not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner’s or operator’s insurance company or lienholder;
- Whether he or she has an insurance policy providing \$300,000 in liability coverage and \$50,000 in on-hook cargo coverage; and
- The maximum charges for towing and storage.<sup>5</sup>

The unauthorized wrecker operator must disclose this information to the owner or operator in the presence of a law enforcement officer if an officer is present at the scene of the accident.<sup>6</sup>

It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated.<sup>7</sup> An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.<sup>8</sup> In either instance, the unauthorized wrecker operator’s wrecker, tow truck, or other motor vehicle used during the offense may be immediately removed and impounded.<sup>9</sup>

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<sup>1</sup> Section 323.002(1)(c), F.S. The definition of “vehicle” does not include a vessel or trailer intended for the transport on land of a vessel. *See s. 320.01*, F.S. (defining “motor vehicle” for the purpose of issuance of motor vehicle licenses and separately defining a “marine boat trailer dealer” as a person engaged in “business of buying ... trailers specifically designed to be drawn by another vehicle and used for the transportation on land of vessels.”)

<sup>2</sup> *Id.*

<sup>3</sup> Section 323.002(1)(a)-(b), F.S.

<sup>4</sup> Section 323.002(2)(b), F.S.

<sup>5</sup> Section 323.002(2)(c), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Section 323.002(2)(d), F.S.

<sup>9</sup> Section 323.002(2)(c) and (d), F.S.

Unauthorized wrecker operators are also prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.<sup>10</sup>

Counties must establish maximum rates for the towing of vehicles removed from private property, as well as the towing and storage of vehicles removed from the scene of an accident or from where the vehicle is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.<sup>11</sup> A county or municipality may not establish rates, including a maximum rate, for the towing of vessels.<sup>12</sup>

### **Vehicle Holds, Wrecker Operator Storage Facilities, and Liens**

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to five business days.<sup>13</sup> A hold may be applied when the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act or ch. 379, F.S.;
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.<sup>14</sup>

An officer may also apply a hold when the vehicle is impounded under s. 316.193, F.S., (relating to driving under the influence), or s. 322.34, F.S., (relating to driving with a suspended or revoked license), or when the officer is complying with a court order.<sup>15</sup> The hold must be in writing and include the name and agency of the law enforcement officer placing the hold, the date and time the hold is placed on the vehicle, a general description of the vehicle, the specific reason for the hold, the condition of the vehicle, the location where the vehicle is being held, and the name and contact information for the wrecker operator and storage facility.<sup>16</sup>

The investigating agency must inform the wrecker operator within the five-day holding period if the agency intends to hold the vehicle for a longer time.<sup>17</sup> The vehicle owner is liable for towing and storage charges for the first five days. If the vehicle is held beyond five days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.<sup>18</sup>

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel possesses a lien on the vehicle or vessel for

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<sup>10</sup> Section 323.002(2)(a), F.S.

<sup>11</sup> Sections 125.0103(1)(c) and 166.043(1)(c), F.S.

<sup>12</sup> Compare s. 125.0103(1)(c), F.S. (requiring a county to establish maximum rates for towing of vehicles) with s. 715.07, F.S. (towing of vehicles or vessels parked on private property).

<sup>13</sup> Section 323.001(1), F.S.

<sup>14</sup> Section 323.001(4)(a)-(e), F.S.

<sup>15</sup> Section 323.001(4)(f)-(g), F.S.

<sup>16</sup> Section 323.001(5), F.S.

<sup>17</sup> Section 323.001(2), F.S.

<sup>18</sup> Section 323.001(2)(a)-(b), F.S.

a reasonable towing fee and storage fee if the vehicle or vessel is removed upon instructions from:

- The owner of the vehicle or vessel;
- The owner, lessor, or authorized person acting on behalf of the owner/lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed according to s. 715.07, F.S.);
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed pursuant to enforcing a lien pursuant to s. 83.806, F.S., or for the removal of property left after a lease is vacated under s. 715.104, F.S.; or
- Any law enforcement agency.<sup>19</sup>

### **Authority for Local Governments to Charge Fees**

Counties and municipalities do not have the authority to levy taxes, other than ad valorem taxes, except as provided by general law.<sup>20</sup> However, local governments possess the authority to impose user fees or assessments by local ordinance as such authority is within the constitutional and statutory home rule powers of local governments.<sup>21</sup> The key distinction between a tax and a fee is that fees are voluntary and benefit particular individuals in a manner not shared by the public at large.<sup>22</sup> On the other hand, a tax is a “forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed.”<sup>23</sup> Usually, a fee is applied for the use of a service and is tied directly to the cost of providing the service. Money collected from a fee is not applied to uses other than to provide the service for which the fee is applied. An administrative fee for towing and storage services may be permissible to the extent the fee provides a specific benefit to vehicle owners.<sup>24</sup>

### **Fees Related to Towing, Storage, and Wrecker Operators**

Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies. The towing company collects the administrative fee on behalf of the municipal government and, in addition to towing and storage fees, must be paid before the towing company releases the vehicle to the registered owner or lienholder.

The City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.<sup>25</sup> The registered owner of the vehicle is then given two options:

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and

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<sup>19</sup> Section 713.78(2), F.S.

<sup>20</sup> FLA. CONST., art. VII, s. 1(a).

<sup>21</sup> *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

<sup>22</sup> *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So.2d 756, 758 (Fla. 3rd DCA 2002).

<sup>23</sup> *Id.*

<sup>24</sup> See *Jasinski v. City of Miami*, 269 F. Supp. 2d 1341, 1348 (S.D. Fla. 2003).

<sup>25</sup> Sarasota Police Department, *Vehicle Seizure Program*, available at <https://www.sarasotapd.org/about-us/vehicle-seizure-program> (last visited Jan. 13, 2020).

Control Act. The owner may post a bond equal to the civil penalty (\$500), hearing costs (\$50), and towing and storage fees for receiving the vehicle back, pending the outcome of the hearing; or the owner may leave the vehicle in impound, incurring additional fees; or

- The registered owner may waive the right to a hearing and pay the civil penalty (\$500).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The City of Bradenton uses a similar process and rate structure.<sup>26</sup>

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an “impoundment administrative fee” on all vehicles seized incident to an arrest. The fee is \$500 if the impoundment stems from a felony arrest and \$250 if the impoundment stems from a misdemeanor.<sup>27</sup>

The City of Winter Springs imposes an administrative fee for impoundment arising from twelve offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.<sup>28</sup> The registered owner may request a hearing, either accruing additional storage fees pending the hearing or posting a bond equal to the amount of the administrative fee (\$550). If the registered owner waives the right to a hearing, the administrative fee is reduced to \$250.

By contrast, some municipalities require wrecker services to pay a monthly fee for serving as authorized wrecker operators. For example, the contract between the City of Sarasota and a wrecker operator requires the operator to pay the city \$10,151 per month for “the opportunity to provide” wrecker services, as well as \$500 for each impounded vehicle sold by the wrecker service.<sup>29</sup>

Additionally, a county or municipality may require a fee from a towing business to be licensed to operate within that county or municipality. For example, to operate a towing business in Miami-Dade County a person or corporation must apply to be a registered towing business with the county, which includes a \$412 annual fee, a vehicle safety inspection with a \$94 decal fee, proof of insurance requirements, and background checks (\$24 fee) of the owners of the towing business.<sup>30</sup>

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<sup>26</sup> Bradenton, Fla. Code of Ordinances, ch. 54, art. IV, *available at* [https://library.municode.com/fl/bradenton/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH54OFMIPR\\_ARTIVIMMOVE\\_USFAPRDRRECR](https://library.municode.com/fl/bradenton/codes/code_of_ordinances?nodeId=PTIICOOR_CH54OFMIPR_ARTIVIMMOVE_USFAPRDRRECR) (last visited Jan. 13, 2020).

<sup>27</sup> Sweetwater, Fla. Code of Ordinances, ch. 42-1, s. 42.1(c), *available at* [https://library.municode.com/fl/sweetwater/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH42MOVETR\\_ARTIINGE\\_S42-1IMMOVE](https://library.municode.com/fl/sweetwater/codes/code_of_ordinances?nodeId=PTIICOOR_CH42MOVETR_ARTIINGE_S42-1IMMOVE) (last visited Jan. 13, 2020).

<sup>28</sup> Winter Springs, Fla. Code of Ordinances, ch. 12, art. V., s. 12-100, *available at* [https://library.municode.com/fl/winter\\_springs/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH12MOVETR\\_ARTVIMMOVE\\_S12-100IMMOVEUSFACEMICRPATRRE](https://library.municode.com/fl/winter_springs/codes/code_of_ordinances?nodeId=PTIICOOR_CH12MOVETR_ARTVIMMOVE_S12-100IMMOVEUSFACEMICRPATRRE) (last visited Jan. 13, 2020).

<sup>29</sup> City of Sarasota, *Agreement for Wrecker Towing and Storage Services* (May 5, 2010) (on file with the Senate Committee on Community Affairs).

<sup>30</sup> Miami-Dade County, *Towing License*, *available at* <http://www.miamidade.gov/licenses/towing.asp> (last visited Jan. 13, 2020).

## Towing from Private Property

A vehicle or vessel may be towed at the direction of an owner or lessee of real property, or their designee if the vehicle or vessel is parked on the property without permission.<sup>31</sup> A person regularly engaged in the business of towing vehicles or vessels must conduct the tow. The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or another legally authorized person in control of that vehicle or vessel is subject to strict compliance with certain conditions and restrictions. These conditions and restrictions include:<sup>32</sup>

- Any towed or removed vehicle or vessel must be stored at a site within a specified distance of the point of removal.<sup>33</sup>
- The towing company must notify local law enforcement within 30 minutes of completing the tow of the storage site; the time the vehicle or vessel was towed; and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel. The towing truck operation is required to record the name of the law enforcement officer who received the information in the trip record.
- The owner of a vehicle or vessel must be allowed to redeem the vehicle or vessel from the towing company if the owner seeks the return before the tow has occurred. The towing company may charge a reasonable service fee of up to one-half of the posted towing rate for the return of the vehicle or vessel and may tow the vehicle or vessel if the owner is unable to pay the fee after a reasonable opportunity.
- A towing company may not pay or accept money in exchange for the privilege of towing or removing vehicles or vessels from a particular location.
- If the towing company requires the owner of a vehicle to pay the costs of towing and storage before redemption, the towing company must file and keep on record its rate schedule with the local law enforcement agency and post the rate schedule at the storage site.
- Trucks and wreckers used by the towing company must have the name, address, and telephone number of the company printed on both sides of the vehicle in contrasting letters. The name of the towing company must be in 3-inch or taller permanently affixed letters, while the address and telephone number must be in 1-inch or taller permanently affixed letters.
- The towing company must exercise reasonable care when entering a vehicle or vessel to remove it. The towing company is liable for any damage to the vehicle caused by failure to exercise reasonable care.
- The vehicle or vessel must be released to its owner within one hour after request. The owner maintains a right to inspect the vehicle or vessel, and the towing company operation may not require a release or waiver of damages to be signed as a condition of returning the vehicle. The towing company operator must issue a detailed, single receipt to the owner of the vehicle or vessel.

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<sup>31</sup> Section 715.07(2), F.S.

<sup>32</sup> Section 715.07(2)(a), F.S.

<sup>33</sup> Section 715.07(2)(a)1.a., F.S. The vehicle or vessel must be stored within a 10-mile radius of the removal point in a county with a population of at least 500,000 and within a 15-mile radius of the removal point in a county with a population of fewer than 500,000. If no towing business operated within the given area, these radiuses are extended to 20 miles (for a county with a population of at least 500,000) and 30 miles (for a county with a population of fewer than 500,000). The site must be open from 8 am to 6 pm when the towing business is in operation and must post a telephone number where the operator of the site can be reached when the site is closed. The operator must return to the site within one hour.

Additionally, a vehicle or vessel may not be towed without consent of its owner, except from property appurtenant to a single-family residence, unless a notice is posted which states the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or that the vehicle or vessel is subject to being removed at the owner's or operator's expense and the notice meets the following requirements:<sup>34</sup>

- The notice is placed prominently at each driveway access or curb cut, within five feet from the public right-of-way line. If the property has no curbs or access barriers, signs must be posted at least once every 25 feet of lot frontage.
- The notice must indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense and contain the words "tow-away zone" in letters not less than 4 inches high.
- The notice must provide the name and telephone number of the towing company.
- The sign containing the notices must be permanently installed in such a way that the words "tow-away zone" is between 3 and 6 feet above ground level and the sign must have been continuously maintained on the property for not less than 24 hours before the towing of any vehicle or vessel.
- Local governments may also require permitting and inspection of signage before any towing is authorized.
- A business with 20 or fewer parking spaces may satisfy the requirement by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.
- A property owner towing or removing vessels from real property must post a notice, consistent with the requirements in the statute which apply to vehicles,<sup>35</sup> that unauthorized vehicles or vessels will be towed away at the owner's expense.

A vehicle or vessel may be towed even in the absence of a tow-away zone sign if the vehicle or vessel is parked in such a way that it restricts the normal operation of a business or restricts access to a private driveway and the business owner or lessee requests the tow.<sup>36</sup>

A county or municipality may adopt additional standards, including regulation of the rates charged when a vehicle or vessel is towed from private property.<sup>37</sup>

### **III. Effect of Proposed Changes:**

The bill authorizes a county or municipality to regulate the rates for the towing or immobilization of vessels. A county or municipality must establish a maximum rate that may be charged for the towing or immobilization of a vessel.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators or a towing business. The bill defines the term "towing business" as a business providing towing services for monetary gains. The prohibition

<sup>34</sup> Section 715.07(2)(a)5, F.S.

<sup>35</sup> These requirements are contained in s. 715.07(2)(a)5.a.-f., F.S.

<sup>36</sup> Section 715.07(2)(a)5, F.S.

<sup>37</sup> Section 715.07(2)(b), F.S.

would not impact the ability of the county or municipality to levy a business tax or impose a reasonable administrative fee or charge by ordinance on the legal owner of a vehicle or vessel to cover the cost of enforcement, including parking enforcement, by the county or municipality when the vehicle or vessel is towed from public property. The administrative fee may not exceed 25 percent of the maximum towing rate.

The bill authorizes an authorized wrecker operator or towing business to impose and collect the administrative fee and provides that the authorized wrecker operator or towing business is not required to remit the fee to the county or municipality until it is collected. The bill requires the administrative fee to be included as part of the lien on the vehicle or vessel held by the towing operator.

The prohibition on county ordinances or rules that impose a fee or tax on authorized wrecker operators or towing businesses does not apply to tow or immobilization licensing, regulatory, or enforcement programs in effect on January 1, 2020, in charter counties where:

- 90 percent of the county's population lives in incorporated municipalities;<sup>38</sup>
- The county contains at least 38 incorporated municipalities within its territorial boundaries as of January 1, 2020;<sup>39</sup> or
- The county is a county as defined in s. 125.011(1), F.S.

These counties may continue to operate their existing towing or immobilization licensing, regulatory, or enforcement programs and are authorized to levy an administrative fee for enforcement costs. A county as defined in s. 125.011(1), F.S., is prohibited from imposing any new business tax, fee, or charge that was not in effect on January 1, 2020, on a towing business or authorized wrecker operator.

The bill prohibits a county or municipality from adopting or enforcing an ordinance that imposes any charge, cost, expense, fine, fee, or penalty on the registered owner of a vehicle or vessel, on the lienholder of a vehicle or vessel, or on an authorized wrecker operator when the vehicle or vessel is removed and impounded by an authorized wrecker operator. This prohibition does not apply to a reasonable administrative fee or charge, limited to 25 percent of the maximum towing rate, to cover the cost of enforcement and does not apply to the continuing operation of towing or immobilization licensing, regulatory, or enforcement programs in grandfathered charter counties.

The bill prohibits a municipality or county from enacting an ordinance or rule requiring an authorized wrecker operator or towing business to accept credit cards as a form of payment. This prohibition does not apply to an ordinance or rule adopted before January 1, 2020. The bill requires an authorized wrecker operator or towing business that does not accept credit cards as a form of payment to maintain an operable automatic teller machine for use by the public at its place of business.

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<sup>38</sup> As of April 1, 2018, more than 90 percent of the populations of Broward County and Duval County live in incorporated areas. EDR, *Florida Population Estimates for Counties and Municipalities*, available at: <http://edr.state.fl.us/Content/population-demographics/data/index-floridaproducts.cfm> (last visited Jan. 16, 2020). Broward County operates a towing or immobilization licensing, regulatory, or enforcement program, while Duval County does not.

<sup>39</sup> As of Oct. 1, 2019, only Palm Beach County has more than 38 municipalities. *See id.* (Palm Beach County has 39 municipalities).



The bill revises the requirement that a tow-away zone notice must be placed within five feet from the public right-of-way line and instead requires the tow-away zone notice be placed within ten feet of the “road,” as defined in s. 334.03(22), F.S.

The bill revises several provisions currently applicable to a person in control of a vehicle or vessel, making these provisions applicable also to those in custody of the vehicle.

The bill takes effect October 1, 2020.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

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

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate. However, these requirements do not apply to laws that have an insignificant fiscal impact<sup>40</sup> on local governments, which for the Fiscal Year 2019-2020 is forecast at approximately \$2.2 million.<sup>41, 42</sup>

While local governments appear to benefit from potential revenue increases as a result of some of the bill’s provisions; *e.g.*, the authorized administrative fees charged to vehicle owners, authorized persons, and lienholders, other provisions in the bill prohibit local governments from imposing amounts that may currently be imposed; *e.g.*, requiring local governments to set a maximum fee amount and prohibiting fee collection from authorized wreckers and towing businesses.

The extent to which the potential revenue increases would be offset by the bill’s prohibitions against local government imposition of the specified fees, charges, etc., is indeterminate. Thus, the bill may reduce the authority of municipalities or counties to raise revenue. This reduction may be above the “insignificant impact” ceiling and approval of the bill by each house of the Legislature by a two-thirds vote of its members may be required.

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<sup>40</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Jan. 16, 2020)

<sup>41</sup> FLA. CONST. art. VII, s. 18(d).

<sup>42</sup> Based on the Florida Demographic Estimating Conference’s Dec. 3, 2019 population forecast for 2020 of 21,555,986. The conference packet is available at: <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Jan. 16, 2020).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

The bill contains provisions that may both increase and decrease revenues and expenses for the private sector, as the bill prohibits county and municipal imposition of the identified fees and charges on authorized wrecker operators or towing businesses, replaced by business taxes that businesses are likely already paying and limited administrative fees that such operators and businesses must remit to the county or municipality (when a vehicle or vessel is towed from public property). These revisions would presumably decrease expenses for such operators and businesses, thereby increasing revenue, in indeterminate amounts. The increase would be offset by costs associated with collecting and remitting the limited administrative fees, but only if an operator or business chooses to do so.

Also, Counties and municipalities will have to limit administrative wrecker and towing fees, which are not to exceed 25 percent of the maximum towing rate. This revision would presumably reduce expenses to owners or authorized persons whose vehicles or vessels are towed from public property, in indeterminate amounts.

**C. Government Sector Impact:**

The bill contains provisions that may both increase and decrease revenues and expenses for local governments. The bill prohibits local governments from imposing the identified fees on authorized wrecker operators or towing businesses, but these fees may still be imposed against the owners and lienholders of the vehicle and vessel being moved. This revision would presumably reduce revenue to local governments in indeterminate amounts or extend the time it takes for local governments to receive remitted fees from wreckers and towing businesses. The authorized reasonable administrative fee assessed

against owners or authorized persons, limited to 25 percent of the maximum towing rate, presumably would not offset the reduction in local government revenue due to the prohibition.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 125.0103, 166.043, 323.002, 713.78, and 715.07 of the Florida Statutes.

This bill creates sections 125.01047 and 166.04465 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Community Affairs on January 21, 2020:**

The committee substitute:

- Changes the current requirement that tow-away zone notices are placed within “5 feet” from the “public right-of-way line” to require the notices be placed within “10 feet” from the “road” as defined s. 334.03(22), F.S.;
- Removes proposed changes in the bill about attorney fees in connection with the towing of vehicles or vessels from private property; and
- Provides an effective date of October 1, 2020.

- B. **Amendments:**

None.