SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: January 13, 1998 Revised: ________ ________ ________ ________

Subject: Tax Administration

	Analyst	Staff Director	Reference	Action
1.	Nebelsiek	Wilson	GO	Favorable
2.			WM	
3.				
4.				
5.				

I. Summary:

This bill creates the certified audit project under which taxpayers may hire qualified practitioners to review and report on their tax compliance. The Department of Revenue (DOR) is authorized to provide certain information to the Board of Accountancy or to a court with respect to practitioners participating in the project. The bill provides for an appropriation and for repeal of the project.

This bill creates section 213.285 and amends sections 213.053 and 213.21, Florida Statutes.

II. Present Situation:

Currently, the DOR has a contract audit project which enables the DOR to engage CPA (Certified Public Accountant) firms to perform audits of designated taxpayers. Line item 1950 of the 1996-97 General Appropriations Act contained proviso language authorizing DOR to pilot an additional, improved approach (called "certified audits") intended to leverage resources by performing compliance reviews using private CPAs. However, provisions in another bill which offered incentives to taxpayers were vetoed (see CS/SB 624--1996) and the certified audits project was not implemented. The Governor did not articulate disapproval of the certified audit project in his veto message; he simply stated that he was unable to evaluate the various tax proposals on their individual merits since diverse issues were included in a single bill.

DOR is occasionally confronted with recurring issues that it determines should be settled. DOR cannot apply settlement terms to cases in which a compromise of tax exceeds $100,000. The bill addresses this issue.

III. Effect of Proposed Changes:

Section 1.
This bill establishes a framework for a certified audit project. Taxpayers who have not been previously advised by DOR of an intent to audit may hire qualified CPA firms, at their own expense, to examine and report on their tax compliance. A DOR approved certification is required before a CPA may participate in the project.

The certified audit work performed by qualified CPAs must use mutually agreed-upon procedures. Within 30 days of receipt of a notice of qualification from DOR, the qualified CPA must submit a proposed audit plan for DOR's review and approval. Upon approval, the qualified practitioner must perform the audit and submit a timely report to DOR. DOR will then issue a notice of proposed assessment, but is precluded from issuing any additional assessments for the period covered by the audit, except in the instance of qualification of a taxpayer.

As provided in the revisions to s. 213.21(7), F.S., DOR is required to compromise penalties and interest, except in the case of tax collected but not remitted. Statutes of limitations are tolled upon notice of qualification of a taxpayer.

Statutory provisions relating to the certified audit project are repealed effective July 1, 2002.

Section 2.
The Board of Accountancy is not an entity with which DOR currently may share information. The bill adds paragraph (o) to s. 213.053(7), F.S., authorizing DOR to share certain information with the Board of Accountancy or the courts, if the information request is:
- connected to a disciplinary proceeding or civil proceeding; and
- the proceeding is related to a CPA that participated in the certified audit program.

Sharing information under this section does not alter the confidential status of the information shared.

This provision is repealed on July 1, 2002.

Section 3.
Section 213.21(2)(a), F.S., authorizes DOR's Executive Director to compromise tax of $100,000 or less based on doubt as to liability or collectibility. Amounts exceeding $100,000 may only be compromised by the Governor and Cabinet, or the Executive Director if the case is in litigation. Subsection (7) is added to s. 213.21, F.S., to require DOR to settle or compromise penalties as an incentive to taxpayers who participate in the certified audits program. DOR is further required to abate the first $25,000 of interest liability, and an additional 25 percent of any interest liability in excess of the first $25,000.

DOR is also authorized to consider additional compromise of tax or interest. These provisions are not applicable where taxes have been collected but not remitted.

This subsection is repealed on July 1, 2002.

Section 4.
An appropriation of $264,798 from the General Revenue Fund to DOR, and creation of two positions to implement the certified audit program is provided in this section. DOR is directed to contract with the Florida Institute of Certified Public Accountants (FICPA) for development and delivery of the instructional curriculum and qualification testing which CPA firms must complete before participating in the certified audit program.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Collection of taxes and forgiveness of interest liability are discussed below.

B. Private Sector Impact:

The compromise of tax and penalties and the forgiveness of interest liability will have a positive impact on the private sector. Additionally, the FICPA will benefit as the provider of the instructional curriculum and qualification testing which CPA firms must complete before participating in the certified audit program. Increased state tax collection resulting from this program may be perceived as having a negative impact on businesses.

C. Government Sector Impact:

The amount of additional revenue collected is indeterminate, however, the state will benefit from increased tax revenues. The negative impacts on the state include loss of the interest liability dollars and the $264,798 cost of implementing the program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.