

STORAGE NAME: s0172s1z.ft
DATE: June 29, 1999

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCE AND TAXATION
FINAL ANALYSIS**

BILL #: CS/SB 172 Second Engrossed
RELATING TO: Taxation
SPONSOR(S): Senate Committee on Fiscal Resource, Senator Horne, Senator Grant, and Senator Lee
COMPANION BILL(S): HB 1113, HB 1737, HB 1947, HB 1953, and HB 1955 (compare)
ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) Senate Committee on Fiscal Resource

I. FINAL ACTION STATUS:

On June 8, 1999, CS/SB 172 approved by the Governor with a specific line item vetoed. See section by section analysis for details. (Chapter #99- 239 L.O.F.)

II. SUMMARY:

This bill provides that interest shall be paid on refunds of tax overpayments. Interest will start to accrue 90 days after a complete refund application has been filed.

It also provides that the interest applicable to most tax payment deficiencies be based on the prime rate and will be adjusted every six months.

The bill raises the threshold for determining businesses that must pay estimated sales taxes from \$100,000 to \$200,000 in sales tax liability for the most recently completed state fiscal year. In addition, the bill reduces the estimated tax payments from 66 percent of estimated liability to 60 percent.

The bill also provides that:

- the statute of limitations is reduced from five years to three years on the ability of the state to assess taxes, penalties or interest which may be due with limited exemptions;
- the filing period for tangible personal property taxes is extended; and
- resale certificates are required to be renewed annually.

The bill reduces the alcoholic beverage surcharge for on-premise consumption by one-third and holds the Children and Adolescent Substance Abuse Trust Fund harmless.

The bill prevents any county not collecting school impact fees on May 1, 1999 from collecting these fees between July 1, 1999 and June 20, 2000. Counties imposing school impact fees will be limited to collecting the amount approved by ordinance before May 1, 1999 during the same period.

Finally, the bill also provides that beginning in state fiscal year 1999-2000, an additional distribution in the amount of \$6.24 times the population shall be annually appropriated to any consolidated government, as provided by s. 3, Article VIII of the state Constitution. In order to be eligible for this distribution, such consolidation must have occurred prior to January 1, 1999. Duval county is the only county that satisfies this requirement.

The bill will have a negative fiscal impact on tax revenues of \$130.38 million in FY 1999-2000 and a recurring loss of \$96.88 million in FY 2000-2001.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The 1989 Legislature created a Taxpayers' Bill of Rights Task Force and charged it with drafting proposed legislation for a Florida Taxpayers' Bill of Rights. The Task Force issued its report in May 1990. In November 1992, Florida voters approved Constitutional amendment #5 -- proposed by the Taxation and Budget Reform Commission -- which called for a taxpayer bill of rights to set forth taxpayers' rights and responsibilities and government's responsibilities to deal fairly with taxpayers.

The 1992 Legislature enacted s. 213.015, F.S., creating a taxpayer bill of rights containing 15 separate rights. The Legislature adopted most of the Task Force language but omitted some recommendations, including the payment of interest on late refunds, the same 5-year statute of limitations for refunds and assessments, and the assurance that auditors are not compensated based on the amount of tax assessed or collected.

Statute of limitations

The statute of limitations for both assessments and refunds is currently five years. Prior to the passage of the sales tax on services and a tax amnesty program in 1987, Florida law contained the same three-year statute of limitations for both audits and refunds. At that time, the limitation for assessments was increased to 5 years while the statute of limitations for refunds remained at three years. The 1994 Legislature increased the limitation on refunds to five years.

Interest on late refunds

Florida taxpayers must pay interest on delinquent tax payments. There is no provision requiring the state to pay taxpayers interest on refunds owed to them that are late except corporate income taxpayers. The federal government pays interest on late refunds (see Internal Revenue Code § 6611).

Interest rates on delinquent taxes

Interest of 1% a month or 12% a year is applied to most delinquent taxes. The interest rate applied to corporate income taxes is a floating rate tied to the prime rate offered by banks.

Tangible Personal Property

Section 192.001, F.S., defines tangible personal property as "all goods, chattels, and other articles of value . . . capable of manual possession and whose chief value is intrinsic to the article itself." A more descriptive definition of tangible personal property is any personal property which may be seen, perceived by the senses, weighed, measured, or touched. However, stocks, bonds, notes, securities, or other obligations are not tangible personal property.

Currently under 193.063, F.S., a property appraiser may issue an extension for filing a tangible personal property tax return. This extension may be *up to* 45 days and is at the property appraiser's discretion. A request for an extension must be made in time to allow the property appraiser to review the request and act on it prior to the tax return due date. In addition, the request for an extension must include the taxable entity's name, its tax identification number, and the reason why an extension should be granted.

Pursuant to section 193.072, F.S., the penalty for filing a return after the due date is five percent of the total tax levied against the property covered by the return for that year for each month that a return is filed after the due date and is not to exceed 25 percent.

Estimated Taxes

Section 212.11(1)(a) F.S., read in conjunction with Section 212.11(4)(a), F.S., requires a sales tax dealer who in the preceding state fiscal year paid sales/use tax in an amount equal to or greater than \$100,000 to pay an estimated tax liability. The sales tax dealer must use one of the following methods to calculate the estimated tax liability:

- sixty-six percent of the current month's liability pursuant to this part as shown on the tax return,
- sixty-six percent of the tax reported on the tax return pursuant to this part by a dealer for the taxable transactions occurring during the corresponding month of the preceding calendar year, or
- sixty-six percent of the average tax liability pursuant to this part for those months during the preceding calendar year in which the dealer reported taxable transactions.

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The difference between the estimated tax paid and the actual amount of tax collected is due by the first of the month after it is collected and must be remitted by the 20th day of the month after the tax is collected.

If the dealer paid less than \$100,000 in sales tax in the preceding state fiscal year, no estimated tax is due. Sales tax collected is due by the first of the month after it is collected and must be remitted by the 20th day of the month after the tax is collected.

Under present law, a sales tax dealer who paid \$100,000 or more in sales tax and who is engaged in the business of selling boats, motor vehicles, or aircraft must pay estimated sales tax using one of the methods described above.

Resale Certificates

Current provisions of s. 212.07, F.S., allow an individual or business operating as a dealer to purchase items without being subject to the state sales tax. The transaction may be considered a "sale for resale" where the purchaser can claim exempt status from the sales tax which may otherwise be due. The purchase must take place in order for the item to be resold and the tax then becomes due. A study committee was formed to review these procedures and make "recommendations for revising the sale for resale exemption system...in order to eliminate the improper use of the resale exemption and provide for more effective administration and enforcement."

Alcoholic Beverage Surcharge

An alcoholic beverage surcharge is imposed on all alcoholic beverages sold by the drink for consumption on a retailer's licensed premises [s. 561.501]. The surcharge is 10 cents on each one ounce of liquor or four ounces of wine, six cents on each 12 ounces of cider, and four cents on each 12 ounces of beer. Numerous simplifications have been made to the surcharge collection process during the past several years; nevertheless, the surcharge is generally considered to be a difficult tax to report and to audit.

Retailers are required to remit the alcoholic beverage surcharge monthly and may pay the surcharge based on their actual on-premise sales during the previous month or up-front based on the amount of alcoholic beverage purchases they made from licensed wholesalers. The Division of Alcoholic Beverages and Tobacco (DABT) reports that approximately 87% of retailers utilize the purchase method to calculate the surcharge. The sales method of calculations and remittance involves a more cumbersome record keeping procedure which often results in retailer miscalculations. For FY 1997-1998, the retail surcharge generated approximately \$107 million in tax due to the state: \$29 million from malt beverages, \$21 million from wines, \$56 million from spirits, and \$1,800 from cider.

Retailers are allowed to retain one percent of the monthly surcharge owed to the state to cover their cost of maintaining appropriate records and remitting the tax in a timely manner.

Until recently, efforts to repeal the surcharge were unsuccessful due to the difficulty in reaching agreement on a suitable revenue replacement source. Legislation was enacted during the 1997 Session (Chapter 97-213, L.O.F.). The repeal passed as part of a bill dealing with the unlawful direct shipping of alcoholic beverages. The nexus between the two issues was the belief that substantial tax dollars are lost due to unlawful direct shipping and if recouped, the increased tax revenue [excise & sales taxes] might be sufficient to repeal the surcharge. The DABT was required to report to the Legislature by March 1, 1999, the total amount of revenue collected pursuant to this law during calendar year 1998. Preliminary indications, however, do not demonstrate significant increased excise tax revenue collections which can be attributed to the direct shipping legislation.

Another effort at repeal resulted in legislation during the 1998 Session which tied repeal of the surcharge to the employment of WAGES participants by the food and beverage industry. That legislation set forth a formula by which the economic benefit of employing a WAGES participant could be calculated. This legislation passed but was subsequently vetoed by the Governor. The concern was that it did not set forth an adequate means of recouping the lost revenue.

Section 561.121, F.S., requires nine and eight-tenths of the surcharge to be transferred to the Children and Adolescents Substance Abuse Trust Fund [CASA TF] for the purpose of funding programs directed at reducing and eliminating substance abuse problems among children and

adolescents. In FY 1997-1998, \$10,042,204 was transferred from surcharge collections to the CASA TF.

Section 3 of Chapter 97-213, Laws of Florida, contains an amendment to s. 561.121, Florida Statutes, which specifies that in the event the surcharge is repealed, \$10 million annually will be transferred from excise tax collections to the CASA TF.

School Impact Fees

Under the Home Rule power given to counties in Article VIII, section 6 of the Florida Constitution, and Section 125.01, F.S., counties may levy impact fees on new construction. The fees are used to pay for the increased demand on infrastructure created by new construction. The fees are levied in proportion to the demand created by the new construction and used to build the new infrastructure needed. Impact fees are levied to construct new infrastructure including water and sewer facilities, roads, fire departments, and schools.

Currently, fifteen counties levy school impact fees on new construction to finance the construction of new schools. These levies raised approximately \$70 million in school impact fees during fiscal year 1997-1998.

B. EFFECT OF PROPOSED CHANGES:

Statute of limitations

The bill addresses the statute of limitations on actions to collect taxes, tax penalties or interest by DOR and the Department of Business and Professional Regulation (DBPR)(re: tobacco and alcohol taxes) by reducing the time period from five years to three years for taxes due on or after July 1, 1999. The current statutory exceptions to the general five-year statute of limitations continue to apply to taxes due before July 1, 1999.

The bill specifies that the current two year tolling period when the department issues a notice of intent to audit would apply to taxes due before July 1, 1999, after which the tolling period would be one year.

Interest on late refunds and Interest rates on delinquent taxes

The bill provides that interest shall be paid on refunds of tax overpayments or taxes paid in error. Interest shall not commence until 90 days after a complete refund application has been filed. If an audit of the claim is necessary, interest shall not commence until that audit is final. The rate of interest will be the same as the rate currently paid on corporate income tax refunds except that the rate shall not exceed 11%. The bill provides that the interest applicable to most tax payment deficiencies be calculated the same as the interest rate applied to corporate income tax delinquencies. The rate will be based on the prime rate and will be adjusted every six months.

Tangible Personal Property

The bill requires that the property appraiser grant an extension for filing a tangible personal property tax return for 30 days if a request is submitted. The bill authorizes an additional discretionary extension of up to 15 additional days. This is different from 1998 law, as the property appraiser now has complete discretion to grant up to a 45-day extension. Although this bill does not change the maximum amount of days allowed for the extension (45 days), it does limit the property appraiser's discretion to only 15 days. Upon filing a request for an extension, a taxpayer will receive, at a minimum, a 30-day extension. This period may be extended for an additional 15 days at the discretion of the property appraiser.

The bill prohibits the property appraiser from requiring a request for extension more than 10 days prior to the tax return's due date. Currently, section 193.063, F.S., provides that an extension request must be submitted in time to allow the property appraiser to review the request and act on it prior to the tax return due date. Under this bill, the property appraiser is prohibited from requiring that the request be submitted more than 10 days prior to the due date.

The bill revises the requirements relating to the extension request by allowing any or all of the following information to be included in the request: name of the taxable entity, tax identification number, and the reason a discretionary extension is granted. The required information is at the option of the property appraiser.

Estimated Taxes

The bill raises the threshold for determining businesses that must pay estimated sales taxes from \$100,000 to \$200,000 in sales tax liability for the most recently completed state fiscal year. In addition, the bill reduces the estimated tax payments from 66 percent of estimated liability to 60 percent.

Resale Certificates

The bill provides for the annual issuance of resale certificates to "active dealers" (defined by the bill to mean " a person who is currently registered with the DOR and who complies with the requirement to file at least once during each applicable reporting period").

A dealer who makes a sale for resale would be required to document the exempt status of the transaction by either retaining a copy of the purchaser's resale certificate or by documenting, before the sale, an authorization number provided by the DOR. Annually, the DOR would be required to provide each active dealer with a new annual resale certificate. New dealers would receive a certificate upon registration.

Alcoholic Beverage Surcharge

The bill reduces the surcharge on alcoholic beverages sold for consumption on a retailer's licensed premises by 33 percent. The surcharge would be reduced to 6.67 cents on each one ounce of liquor or four ounces of wine, 4 cents on each 12 ounces of cider, and 2.67 cents on each 12 ounces of beer.

The bill would increase the portion of funds transferred the CASA TF from 9.8 percent to 13.6 percent.

School Impact Fees

The bill prevents any county not collecting school impact fees on May 1, 1999 from collecting these fees between July 1, 1999 and June 20, 2000. Counties imposing school impact fees will be limited to collecting the amount approved by ordinance before May 1, 1999 during the same period.

Consolidated Government Revenue Sharing

The bill also provides that beginning in state fiscal year 1999-2000, an additional distribution in the amount of \$6.24 times the population shall be annually appropriated to any consolidated government, as provided by s. 3, Article VIII of the state Constitution. In order to be eligible for this distribution, such consolidation must have occurred prior to January 1, 1999. Duval county is the only county that satisfies this requirement.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill requires that the DOR address three specific programs for purposes of making information available to taxpayers.

Also, an automatic 30-day extension effectively moves the tax return date from April 1 to May 1. Since counties must have their preliminary tax roll prepared by July 1, property appraisers will be required to do the required work in 60 days rather than 90 days without any additional people (Section 2 of the bill).

- (3) any entitlement to a government service or benefit?

As noted in (2) above, certain services by the DOR are mandated by the bill.

The bill increases the entitlement to interest on late tax refunds to all taxpayers. Current law only grants such interest to corporate taxpayers.

Also, the bill requires a property appraiser to grant a 30-day extension for filing a tangible personal property tax return. The statute previously authorized the property appraiser to grant up to 45 days, at his or her discretion, upon a request for an extension. Under the bill, a 30-day extension will be granted upon submitting a request (Section 2 of the bill).

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

Yes.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends ss. 95.091, 193.06, 212.07, 212.011, 212.18, 213.053, 215.26, 561.501, 561.121 and creates ss. 213.235, 213.245, 213.251, and 213.255, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 95.091, F.S., to provide for a three year statute of limitation on the ability of DOR to assess taxes, penalties or interest which may be due with limited exemptions. Removes language relating to tolling periods. Section 8 of the bill revises these deleted provisions for tolling periods.

Section 2 amends section 193.063, F.S., to require the property appraiser to grant a 30-day filing extension, upon filing a request for an extension, for a tangible personal property tax return; authorizes an additional discretionary 15-day extension; prohibits the property appraiser from requiring that an extension request be filed more than 10 days prior to the return due date; and revises requirements of specific information in the extension request.

Section 3 Effective February 1, 2000, amends s. 212.07, F.S., to provide for annual issuance of resale certificates to active dealers and require documentation of the transaction.

Section 4 Effective January 1, 2000, amends s. 212.18, F.S., to require the DOR to issue an annual resale certificate to dealers. New dealers would receive a certificate upon registration.

Section 5 Effective January 1, 2000, amends s. 212.11, F.S., raising the threshold for determining businesses that must pay estimated sales taxes from \$100,000 to \$200,000 in sales tax liability for the most recently completed state fiscal year. In addition, the bill reduces the estimated tax payments from 66 percent of estimated liability to 60 percent.

Section 6 Effective January 1, 2000, amends s. 213.053, F.S., to authorize the DOR to verify whether a specific resale certificate is valid, canceled, or inactive.

Section 7 Effective January 1, 2000, creates s. 213.235, F.S., to provide for the payment of an adjusted rate of interest on tax deficiencies that arise on or after January 1, 2000. Specifies that if a lower rate of interest for the tax is specifically provided for in the law then the lower rate would apply. Specifies that the adjusted rate of interest would be based on the adjusted prime rate charged by banks.

Section 8 creates s. 213.45, F.S., to revise the tolling periods during an audit originally in s. 95.091(3), F.S. It provides that the period for filing a claim for refund as required by s. 215.26(2), F.S., shall be tolled for a period of one year if the Department of Revenue has, on or after July 1, 1999, issued a notice of intent to conduct an audit or investigation of the taxpayer's account within the applicable period of time.

Section 9 Effective January 1, 2000, creates s. 213.255, F.S., to provide that interest shall be paid on refunds of tax overpayments or taxes paid in error. Interest shall not commence until 90 days after a complete refund application has been filed. This section lists the requirements of a complete application. The department is required to examine the application within 30 days of receipt of the application. If an audit of the claim is necessary, interest shall not commence until that audit is final. The rate of interest will be the same as the rate paid on delinquent taxes, except that the rate shall not exceed 11%.

Section 10 amends s. 215.26, F.S., relating to the statute of limitations on applications for tax refunds, to specify that an application for a refund of taxes that were paid on or after July 1, 1999, must be filed within three years after the date the tax is paid. The current five year period for refund applications would apply to taxes paid after September 30, 1994, but before July 1, 1999.

Section 11 Effective January 1, 2000, provides that the DOR establish a toll-free number for verification of dealer registration numbers and resale certificates.

Section 12 Effective January 1, 2000, provides that the DOR establish a system for validating listings of vendor resale and exemption certificate numbers.

Section 13 Effective July 1, 1999, requires the DOR to expand the dealer education program on proper usage of resale certificates.

Section 14 Effective September 1, 1999, amends s. 561.501, F.S., reducing the surcharge collected on the sale of alcoholic beverages consumed in a retailer's licensed establishment by one-third.

Section 15 Effective September 1, 1999, amends s. 561.121, F.S., increasing the share distributed to the Children and Adolescents Substance Abuse Trust Fund to 13.6 percent.

Section 16 provides that a school impact fee or an increase in a school impact fee shall take effect as scheduled where the ordinance was adopted prior to May 1, 1999. However, a new impact fee or an increase to an existing school impact fee adopted by a county ordinance subsequent to May 1, 1999, shall not take effect until July 1, 2000.

Section 17 creates the Florida School Construction Finance Commission which is established to study alternative methods of funding school construction and the pros and cons of each method of funding. The commission is to serve through June 30, 2000 and report their findings to the Speaker of the House, the President of the Senate, and the Governor by February 1, 2000. The commission is composed of four members appointed by the Speaker of the House, four members appointed by the President of the Senate, six members appointed by the Governor, and the Commissioner of Education or his designee.

Section 18 appropriates from the General Revenue Fund to the Legislative committee on Intergovernmental Relations a sum of \$150,000 to be used for the Florida School Construction Financing Commission.

Section 19 appropriates from the General Revenue Fund to the DOR in fiscal year 1999-2000 \$211,065 along with one and one-half FTE positions and \$23,455 of operating capital outlay.
(Vetoed. SB 888, which has also passed into law, already has this provision)

Section 20 provides that beginning in state fiscal year 1999-2000, an additional distribution in the amount of \$6.24 times the population shall be annually appropriated to any consolidated government, as provided by s. 3, Article VIII of the state Constitution. In order to be eligible for this distribution, such consolidation must have occurred prior to January 1, 1999. It also provides an annual appropriation and defines population for the purposes of this section.

Section 21 provides that except as otherwise expressly provided in this act, the effective date shall be July 1, 1999.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

	<u>FY 1999-2000</u>
General Revenue Fund	
Estimated Tax Payments	(\$79.2)
Resale Certificates	(11.2)
Alcoholic Beverage Surcharge	6.6
Interest on Overpayments	1.1
Interest on Delinquencies	(0.6)
Statute of Limitations	48.6
Various Trusts:	
Estimated Tax Payments	(0.2)
Resale Certificates	0.0

Alcoholic Beverage Surcharge	0.0
Interest on Overpayments	0.5
Interest on Delinquencies	(0.0)
<u>Statute of Limitations</u>	<u>2.0</u>
Total non-recurring	(\$32.4)

2. Recurring Effects:

<u>Revenues (in millions):</u>	<u>FY 1999-2000</u>	<u>FY 2000-01</u>
General Revenue Fund		
Estimated Tax Payments	(\$2.7)	(\$2.7)
Resale Certificates	19.2	20.1
Alcoholic Beverage Surcharge	(37.1)	(37.7)
Interest on Overpayments	(3.1)	(3.1)
Interest on Delinquencies	(10.8)	(10.8)
Statute of Limitations	(48.6)	(48.6)
Appropriation for Florida School Construction Financing Commission	(0.15)	(0.15)
Appropriation to Department of Revenue	(0.23)	(0.23)
Appropriation to Duval County (\$6.24 x population) ¹	(4.7)	(4.8)
Various Trusts:		
Estimated Tax Payments	0.0	0.0
Resale Certificates	0.0	0.0
Alcoholic Beverage Surcharge	0.0	0.0
Interest on Overpayments	(1.5)	(1.5)
Interest on Delinquencies	(0.7)	(0.7)
<u>Statute of Limitations</u>	<u>(2.0)</u>	<u>(2.0)</u>
Total recurring	(\$95.38)	(\$92.18)

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

<u>Revenues (in millions):</u>	<u>FY 1999-2000</u>	<u>FY 2000-01</u>
General Revenue Fund	(\$122.98)	(\$87.98)
<u>Various Trust Funds</u>	<u>(\$1.9)</u>	<u>(\$4.2)</u>
Total State Impact	(\$124.78)	(\$92.18)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

	<u>FY 1999-2000</u>
Estimated Tax Payments	(\$8.2)
Resale Certificates	(1.7)
Alcoholic Beverage Surcharge	0.0
Interest on Overpayments	0.1
Interest on Delinquencies	(0.1)
<u>Statute of Limitations</u>	<u>9.4</u>
Total non-recurring	(\$0.5)

¹The latest official population estimate for April 1, 1998 is 753,325. Based on this estimate, Duval county will receive \$4.7 in FY 1999-2000.

2. Recurring Effects:

Revenues (in millions):

	<u>FY 1999-2000</u>	<u>FY 2000-01</u>
Estimated Tax Payments	(\$0.3)	(\$0.3)
Resale Certificates	3.0	3.3
Alcoholic Beverage Surcharge	0.0	(\$0.0)
Interest on Overpayments	(0.4)	(\$0.4)
Interest on Delinquencies	(2.7)	(\$2.7)
Statute of Limitations	(9.4)	(9.4)
<u>Appropriation to Duval County (\$6.24 x population)</u>	<u>4.7</u>	<u>4.8</u>
Total local government impact (Recurring and non-recurring):	(\$5.6)	(\$4.7)

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Alcoholic Beverage Surcharge: Retailers will be responsible for any costs associated with administering the new tax rates.

2. Direct Private Sector Benefits:

Tangible Personal Property: The automatic extension will allow both taxpayers and their CPA's a guarantee of extra time in which to file their tangible personal property tax returns. This automatic extension should be particularly beneficial to taxpayers using CPA's as many CPA's are extremely busy before the April 15 Federal Income Tax filing deadline. The automatic extension would allow taxpayers to wait until May 1 to file, allowing the CPA's some time after the federal deadline to prepare the tangible property tax return. Moreover, because the first 30 days of the extension will be mandatory, taxpayers and their CPA's will not have the problem of arbitrary decisions being made to deny them this first extension. Further, specifying in the statute when the application for the extension must be filed will provide the taxpayer with more certainty and sufficient notice regarding when an application for an extension must be filed.

Estimated Tax Payments, Tax Refunds, and Statute of Limitations: Individuals will receive or retain certain monies that the government would have assessed as taxes. Also, increasing the dollar threshold for businesses that pay estimated sales tax relieves about 50% (6,000 out of 12,000) of these businesses of a financial and administrative burden.

Alcoholic Beverage Surcharge: Retail establishments will be able to retain the \$30.5 million as a result of the reduction in taxing rates or may pass on this savings to consumers.

School Impact Fees: Members of the private sector building and buying new homes will benefit from this legislation.

3. Effects on Competition, Private Enterprise and Employment Markets:

Alcoholic Beverage Surcharge: Any savings generated by the reduced rate may be reinvested for the purpose of expanding operations. This could lead to employment growth in retail establishments receiving these benefits.

School Impact Fees: The bill may provide a boost to the new home construction business.

D. FISCAL COMMENTS:

With respect to the school impact fee provisions in section 16 of the bill, local governments in the aggregate will have a negative indeterminate fiscal impact in FY 1999-2000 and FY 2000-2001.

With respect to the tangible personal property provision in section 2 of the bill: The automatic extension may either cause property appraisers to be unable to thoroughly review the returns or force them to hire additional people to process the tax returns in order for an appraiser to certify the tax roll by the statutory deadline of July 1. For example, last year, Volusia County had approximately 45,000 tax returns filed. Out of those 45,000, its property appraiser received 700 requests for extension and granted all but a few. Extensions for 20 days were normally granted, unless there were extenuating circumstances and a longer extension was granted. Extensions for 45 days were not normally granted due to the July 1 deadline.

Dade County had approximately 108,000 tax returns filed last year. Out of the 108,000 returns, its property appraiser received approximately 210 applications for extensions, and granted 105 of them. The remaining requests were denied mostly because they were not for cause and were form letters asking for extensions. Even with the limited number of extensions, the work load for the Dade County property appraiser was substantial.

Polk County had 19,627 tax returns mailed in 1998. Only 10,163 returns (49%) were filed by the statutory deadline of April 1. As of June 1, the total returns filed had increased to 15,527. By June 1, 21 percent of tax returns had not been filed.

If there is an automatic extension, there is a possibility that a greater number of taxpayers will ask for the extension, causing the property appraiser to have less time to process and evaluate more returns. Inevitably, this may lead to property appraisers being required to increase their staff in order to meet the July 1 deadline.

In addition to the potential need for more staff, counties may lose a substantial amount of revenue generated from penalties for late filing of tangible tax returns. The penalty for filing a return after the due date is five percent of the total tax levied against the property covered by the return for that year, for each month that a return is filed after the due date, not to exceed 25 percent. Last year, penalties for late filings of tangible tax returns in Polk County amounted to approximately \$458,000.

However, it does seem unlikely that every taxpayer will take advantage of the automatic extension. Moreover, the additional time will allow CPAs and other tax professionals time after the Federal Income Tax deadline to file complicated tangible personal property returns. This may increase the completeness and accuracy of the returns submitted.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

If this bill increases the costs to cities or counties, the provisions of Article VII, Section 18 of the Florida Constitution may apply. However, any increase in costs as a result of this legislation is anticipated to be insignificant, and thus, the bill is exempt from the requirements of Article VII, Section 18.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Because the bill temporarily reduces local revenue raising authority, the mandates provisions appear to apply.

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C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

VI. **COMMENTS:**

None.

VII. **AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

None.

VIII. **SIGNATURES:**

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON FINANCE AND TAXATION:

Prepared by:

Staff Director:

Carol L. Dickson-Carr

Alan Johansen