

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 391 w/CS Interest Rates on Tax Payments
SPONSOR(S): Brummer
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1668

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Commerce	16 Y, 0 N w/CS	Billmeier	Billmeier
2) Finance & Tax			
3) Commerce & Local Affairs Apps. (Sub)			
4) Appropriations			
5)			

SUMMARY ANALYSIS

HB 391 w/CS revises the method that interest rates on tax deficiencies are calculated for corporate income taxes and other taxes. Current law provides that the interest rate is the adjusted prime rate charged by banks plus four percentage points. This bill changes the rate to the adjusted prime rate charged by banks.

The Revenue Estimating Conference has not considered the fiscal impact of the committee substitute. The Conference estimated the original bill would have a total negative fiscal impact of \$43.8 million in FY 04-05. See "Fiscal Analysis and Economic Impact Statement" for discussion.

This bill takes effect on July 1, 2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0391a.com.doc
DATE: March 15, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

HB 391 w/CS revises the method which the Department of Revenue (Department) must use to calculate the interest rate paid by the taxpayer on tax deficiencies. This bill makes changes to provisions relating to corporate income taxes and other taxes.

Section 1

Section 213.235, F.S., provides the method that the Department calculates the interest rate on tax deficiencies¹ that arise on or after January 1, 2000. Pursuant to s. 213.235(2), the interest rate is set by the Executive Director of the Department at the adjusted prime rate charged by banks² plus four percentage points. This rate can be adjusted every six months.³

This bill creates s. 213.235(3), F.S., which provides that the annual rate of interest on or after July 1, 2004, which arise on or after July 1, 2004, shall be the adjusted prime rate charged by banks. This rate also applies to tax deficiencies that arose between January 1, 2000, through June 30, 2004.

Section 2

Section 220.807, F.S., provides the method that the Department uses to calculate the interest rate on tax deficiencies due to the corporate income tax. Pursuant to s. 220.807(2), F.S., the interest rate is set by the Executive Director of the Department at the adjusted prime rate charged by banks plus four percentage points. This rate can be adjusted every six months.⁴

This bill creates a new s. 220.807(3), F.S., which provides which provides that the annual rate of interest on or after July 1, 2004, which arise on or after July 1, 2004, shall be the adjusted prime rate charged by banks. This rate also applies to tax deficiencies that arose between January 1, 2000, through June 30, 2004.

Sections 1 and 2 make similar changes to different areas of law. The changes in section 5 relate to tax deficiencies due to the corporate income tax. The changes in section 1 relate to tax deficiencies due to other taxes.

¹ Section 213.235, F.S., applies to all taxes except the corporate income tax. The corporate income tax is found in chapter 220.

² "Adjusted prime rate charged by banks" is defined as the "average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System." s. 213.235(4), F.S.

³ See s. 213.235(2), F.S.

⁴ See s. 220.807(3), F.S.

Section 3

Section 3 provides legislative intent. This bill provides that it is the intent of the Legislature that the provisions of s. 213.235(1) and (2), Florida Statutes, and s. 220.807(1) and (2), Florida Statutes, apply to interest due on tax payment deficiencies that arise on or after January 1, 2000, but before July 1, 2004.

Section 4 of this bill provides that this bill becomes effective July 1, 2004.

C. SECTION DIRECTORY:

Section 1. Amends s. 213.235, F.S., to permit an alternative method of calculating the interest rate due on tax deficiencies in certain situations.

Section 2. Amends s. 220.807, F.S., to permit an alternative method of calculating the interest rate due on corporate income tax deficiencies in certain situations.

Section 3. Provides legislative intent relating to the implementation of this bill.

Section 4. Provides that this bill becomes effective July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The fiscal impact of the committee substitute is unknown.

For FY 04-05, the Revenue Estimating Conference estimated the original bill will have a negative cash fiscal impact of \$38.3 million. The Conference estimated the bill will have a recurring negative fiscal impact of \$13.3 million.

2. Expenditures:

The Department of Revenue estimates \$58,600 in non-recurring costs for programming and training costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The fiscal impact of the committee substitute is unknown.

For FY 04-05, the Revenue Estimating Conference estimated the original bill will have a negative cash fiscal impact on local governments of \$5.6 million. The Conference estimates a recurring negative fiscal impact of \$2 million.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Uncertain. It is not known whether this bill would alter taxpayer behavior regarding late payment of taxes.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not provide additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Committee on Commerce considered this bill on March 8, 2004. The Committee adopted a strike-all amendment that clarified that the Legislature intended that the provisions of s. 213.235 and s. 220.807, F.S., apply to interest due on tax payment deficiencies that arise on or after January 1, 2000, but before July 1, 2004. The amendment removed portions of the original bill that altered the interest rate paid to taxpayers for overpayment of taxes. The bill, as amended, was reported favorably with a committee substitute.