

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 General Government Appropriations Committee

BILL: CS/SB 1748

INTRODUCER: General Government Appropriations Committee and Senator Baker

SUBJECT: Tax Administration

DATE: April 1, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Blizzard/Atalla	DeLoach	GA	Fav/CS
2.	_____	_____	GO	_____
3.	_____	_____	WPSC	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill eliminates the requirement that the Department of Revenue (department) furnish certain forms to counties with a population of 100,000 or fewer. This bill also removes the requirement that the department furnish aerial photographs and maps for counties with a population of 25,000 or fewer at the department's expense. The elimination of these state subsidies will result in a \$630,000 positive impact to general revenue.

The bill authorizes the department to assess an administrative collection processing fee to offset payment processing and administrative costs incurred by the state due to noncompliant filing events. The department shall collect this fee from any taxpayer who fails to pay the amount of tax and penalty due within 90 days of initial notification of the noncompliant filing event. The fee shall be equal to ten percent of the amount of tax and penalty or \$10, whichever is greater.

The bill provides for the distribution of proceeds from the processing fee. Each fiscal year, the first \$12 million collected shall be deposited into the Operations Trust Fund within the department, with the remaining balance transferred into the General Revenue Fund. The March 2009 Revenue Estimating Conference estimates that this provision will increase revenue to the Operations Trust Fund by \$6.2 million in Fiscal Year 2009-2010.

In addition, the bill amends section 213.75, Florida Statutes, to apply payments received against any administrative collection processing fees imposed pursuant to section 213.24(3), Florida Statutes.

The bill requires any taxpayer who files a sales and use tax return or makes a payment by any means other than electronically, to pay a \$5 fee to the department. The department estimates that this provision will provide an additional \$2 million in revenue to the Operations Trust Fund within the department in Fiscal Year 2009-2010.

This bill amends the following sections of the Florida Statutes: 195.022, 213.24, 213.75, 213.755, and 220.21(2).

II. Present Situation:

Forms and Aerial Photography

Section 195.022, F.S., requires the Department of Revenue to prescribe all forms to be used by property appraisers, tax collectors, clerks of the circuit court, and value adjustment boards in administering and collecting ad valorem taxes. For counties with a population of 100,000 or fewer, the department furnishes the forms. The department's current appropriation for forms administration is \$105,000.

For counties with a population of 25,000 or fewer, the department, upon request of any property appraiser or at least once every three years, is required to prescribe and furnish aerial photographs and non-property ownership maps to ensure that all real property within the state is properly listed on the tax roll. All photographs and maps furnished to counties with a population greater than 25,000 are furnished at the property appraiser's expense.

Currently, the Department of Transportation, water management districts, and the Department of Environmental Protection provide aerial photography to the department. The South Florida Water Management District annually provides aerial photography of counties, or portions of counties, within their district at no cost to the department. These partnerships reduce the duplication of aerial photography acquisition by state agencies. In addition, the department has contracted 11 qualified vendors to produce large scale photography.

The department is appropriated \$450,000 in general revenue to cover the cost of aerial photography for counties with a population of 25,000 or fewer and \$75,000 for the non-property ownership maps.

Non-compliant Filing Fees

Currently, s. 213.24(1), F.S., provides that if a notice and demand is made for the payment of any amount due under laws applicable to ch. 213, F.S., and such amount due is paid within 30 days after the date of such billing or notice and demand, no additional penalties or interest will be imposed for the period after the date of notice and demand.

Additionally, s. 213.24(2), F.S., provides that billings for deficiencies or automated refunds of tax, penalty, or interest will not be issued for any amount less than the actual cost incurred to produce a billing or automated refund. The cost of issuing billings or automated refunds for any tax enumerated in s. 213.05, F.S., will be computed in a study performed by the department's inspector general. The study will be conducted every three years or as deemed necessary by the inspector general. Any change in minimum billing or automated refund amount becomes effective on July 1 following the completion of the study.

Section 212.20, F.S., requires all proceeds from taxes and fees to be paid into the General Revenue Fund.

Lastly, s. 213.75, F.S., provides for the order in which certain payments received by the department shall be applied.

Electronic Filing

Section 213.755, F.S., authorizes the department to require a taxpayer to file returns and remit payments by electronic means where the taxpayer is subject to tax and has paid that tax in the prior fiscal year in an amount of \$20,000 or more. Currently there is no fee for filing a hard-copy sales and use tax return or paying by any method other than by electronic means.

III. Effect of Proposed Changes:

Section 1 amends s. 195.022, F.S., to eliminate the requirement that the Department of Revenue furnish forms for counties with a population of 100,000 or fewer. The county officer is required to reproduce forms for distribution at the expense of the county. Section 1 also removes the requirement to furnish photographs and maps for counties with a population of 25,000 or fewer at the department's expense. In addition, Section 1 removes the requirement that forms furnished by the department be paid for by the department.

Section 2 amends s. 213.24(2), F.S., to include fees enumerated in section 213.05, F.S., in the study, conducted by the department's inspector general, that computes the cost of issuing billings or automated refunds.

Section 2 also creates s. 213.24(3), F.S., to provide definitions for the terms "noncompliant filing event" and "extraordinary circumstances." A "noncompliant filing event" occurs when a taxpayer fails to timely file a complete and accurate return or fails to timely pay the amount of tax reported on a return required for the taxes and fees enumerated in section 213.05, F.S., and ch. 443, F.S., that are administered by the department. "Extraordinary circumstances" is defined as the occurrence of events beyond the control of the taxpayer, including, but not limited to the taxpayer's death, acts of war or terrorism, natural disasters, fire, or other casualty, or the nonfeasance or misfeasance of the taxpayer's employees or representatives responsible for complying with the taxes and fees listed in s. 213.05, F.S., and ch. 443, F.S. The taxpayer must show that the principals of the business lacked actual knowledge of the taxpayer's employee's or representative's noncompliance.

Additionally, this section provides for an administrative collection processing fee of ten percent of the amount due or \$10, whichever is greater, for each noncompliant filing event for any amount of tax and penalty due that remains unpaid after 90 days from the initial notification of the noncompliant filing event. The fee will be imposed in addition to any other penalties prescribed by law. The fee may be waived or reduced by the department if the taxpayer demonstrates that the noncompliant filing even was due to extraordinary circumstances.

The proceeds from the fees will not be subject to the services charge imposed in s. 215.20, F.S. The first \$12 million of the proceeds will be paid into the department's Operations Trust Fund. The remaining balance will be transferred into the General Revenue Fund.

Section 3 amends s. 213.75(1), F.S., to apply payments received under this subsection against any administrative collection processing fees imposed pursuant to s. 213.24(3), F.S., if an amount is remaining after applying payments against any interest or penalty, but before applying payments against any tax due.

In addition, Section 3 amends s. 213.75(2), F.S., to apply payments received under this subsection against any administrative collection processing fees imposed pursuant to s. 213.24(3), F.S., if an amount is remaining after applying payments against the cost of recording a warrant or lien, but before applying any payments against interest, penalty, or tax.

Lastly, this section amends s. 213.75(3), F.S., to apply payments received under this subsection against any administrative collection processing fees imposed pursuant to s. 213.24(3), F.S., if an amount is remaining after applying payments against the cost of executing a levy, but before applying any payments against interest, penalty, or tax.

Section 4 adds s. 213.755(6), F.S., to impose a \$5 fee upon any taxpayer who files a sales and use tax return (Form DR-15 or DR-15EZ), or makes a payment by any means other than electronic means. Section 4 also provides that the fee is not to exceed \$5 for each return filed or for each payment made that is not submitted to the department electronically.

Additionally, section 4 requires the fee to be deposited into the Operations Trust Fund in order to offset the costs of the General Tax Administration Program. The proceeds of the fee are not subject to the service charge imposed by section 215.20, F.S.

Section 5 amends s. 220.21(2), F.S., to correct a cross-reference.

Section 6 provides that the bill shall take effect upon becoming a law, except as otherwise provided in the bill. Section 6 provides that sections 2 and 3 of the bill apply to taxes or penalties due on or after February 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Forms and Aerial Photography

The mandates provision of s. 18(a), Art. VII of the State Constitution may apply because counties may be required to make expenditures for forms, aerial photography, and mapping. However, if it is determined that this bill constitutes a mandate, an exemption would apply because county expenditures are insignificant (less than \$1.9 million annually).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Non-compliant Filing Fees

The bill authorizes the Department of Revenue to collect a fee for an administrative collection processing fee of ten percent of the amount due or \$10, whichever is greater, for each noncompliant filing event for any amount of tax and penalty due that remains unpaid after 90 days from the initial notification of the noncompliant filing event. The fee is imposed in addition to any other penalties prescribed by law.

Electronic Filing

This bill imposes a \$5 fee upon any taxpayer who files a sales and use tax return or makes a payment by any means other than electronically. The department estimates the increase in fee revenue to the Operations Trust Fund to be a total of \$2 million in Fiscal Year 2009-2010.

B. Private Sector Impact:

Non-compliant Filing Fees

The bill requires a ten percent collection fee, or \$10, whichever is greater, added to any amount that remains unpaid after 90 days from the initial notification of a noncompliant filing event.

Electronic Filing

The bill requires any taxpayer who files a sales and use tax return to pay a \$5 fee if they make a payment by any means other than electronically.

C. Government Sector Impact:**Forms and Aerial Photography**

The annual impact on the elimination of the subsidy for forms for each county with a population less than 100,000 is less than one-half of one percent of the county's current annual budget. Eliminating the state subsidy for county forms results in an annual \$75,000 savings in general revenue.

Eliminating the subsidy for the aerial photography and maps affects 17 property appraisers. The average annual increase to local budgets is six percent. The elimination of the state subsidy for aerial photography and mapping results in a savings of \$555,000 in general revenue.

Non-compliant Filing Fees

The bill provides for the first \$12 million of the fee collected to be deposited into the department's Operations Trust Fund and for the remaining balance to be transferred to the General Revenue Fund. The March 2009 Revenue Estimating Conference estimates that this provision will increase revenue to the Operations Trust Fund by \$6.2 million in Fiscal Year 2009-2010. The additional revenue provided by this fee reduces the reliance on general revenue funds in the General Tax Program in the Department of Revenue.

Electronic Filing

For Fiscal Year 2009-2010, the department estimates a \$2 million increase in recurring revenue to the Operations Trust Fund due to the \$5 filing fee. The additional revenue provided by this fee increase will result in a general revenue savings of \$2 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by General Government Appropriations Committee on April 1, 2009:

This committee substitute:

- Eliminates the requirement that the Department of Revenue (department) furnish certain forms to counties with a population of 100,000 or fewer.
- Removes the requirement that the department furnish aerial photographs and maps for counties with a population of 25,000 or fewer at the department's expense. The elimination of these state subsidies will result in a \$630,000 positive impact to general revenue.
- Authorizes the department to assess an administrative collection processing fee to offset payment processing and administrative costs incurred by the state due to noncompliant filing events.
- Provides for the distribution of proceeds from the processing fee. Each fiscal year, the first \$12 million collected shall be deposited into the Operations Trust Fund within the department, with the remaining balance transferred into the General Revenue Fund. The March 2009 Revenue Estimating Conference estimates that this provision will increase revenue to the Operations Trust Fund by \$6.2 million in Fiscal Year 2009-2010.
- Applies certain payments against any administrative collection processing fees imposed pursuant to s. 213.24(3), F.S.
- Requires any taxpayer who files a sales and use tax return or makes a payment by any means other than electronically to pay a \$5 fee to the department. The department estimates that this provision will provide an additional \$2 million in revenue to the Operations Trust Fund within the department in Fiscal Year 2009-2010.

B. Amendments:

None.