

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	HB 7087	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Finance & Tax Committee, Precourt and others	117 Y's	1 N's
COMPANION BILLS:	HB 87, HB 123, HB 153, HB 201, HB 371, HB 737, HB 821, CS/HB 821, CS/HB 939, CS/CS/HB 1119, HB 1213, HB 1345, SB 76, SB 294, SB 342, CS/SB 592, SB 806, CS/CS/CS/SB 1150, CS/SB 1384	GOVERNOR'S ACTION:	Pending

SUMMARY ANALYSIS

HB 7087 passed the House on February 15, 2012. The bill was amended by the Senate on March 9, 2012, and subsequently passed the House the same day. The bill contains several provisions designed to encourage economic development in Florida. These are:

Intangible Personal Property Tax on Governmental Leaseholds—The bill provides an exemption from the intangible personal property tax on governmental leaseholds when the lessee serves or performs a governmental, municipal, or public purpose or function.

Cigarette Tax Distributions—The bill provides that beginning July 1, 2013, through June 30, 2021, one percent of net cigarette tax collections will be directed to be used by the Department of Health in conjunction with the Sanford-Burnham Medical Research Institute for biomedical research. The bill further provides that beginning July 1, 2013, through June 30, 2033, the current H. Lee Moffitt Cancer Center and Research Institute funding distribution will increase from 1.47 percent to 2.75 percent of net cigarette tax collections.

Phosphate Severance Tax—The bill sets the phosphate tax rate at \$1.61 per ton severed, except for the time period from January 1, 2015, until December 21, 2022, where it is set at \$1.80 per ton severed. The distribution of the tax is temporarily adjusted during the period when the rate is set at \$1.80, and more funding is directed to the Nonmandatory Land Reclamation Trust Fund.

Tax on Severance and Production of Oil—The bill defines a new class of oil, “mature field recovery oil,” and applies the current tiered tax rate structure for tertiary oil to the newly defined class. It also modifies the distribution of tax proceeds.

New Markets Development Program—The bill increases the total amount of tax credits available to be allocated to the program from \$97.5 million to \$163.8 million over seven years. The bill also makes clarifying changes to conform certain aspects of the state program to the federal program.

Sales Tax Exemptions—The bill modifies several sales tax exemptions and creates two addition exemptions:

- The current sales tax exemption for electricity used for production or processing of agricultural products on the farm is expanded to include electricity used directly or indirectly in a packinghouse where fruits, vegetables, or meat from cattle or hogs are packed or otherwise prepared for market or shipment.
- The increase in productive output required to qualify for the current sales tax exemption for industrial machinery and equipment used by an expanding business is lowered from 10 % to 5%.
- The current minimum aircraft weight requirement for the sales tax exemptions on repair and maintenance parts and labor for aircraft is lowered from 15,000 pounds maximum certified takeoff weight to 2,000 pounds maximum certified takeoff weight.

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

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- A new exemption is created for the purchase of certain chemicals, machinery, parts, and equipment used and consumed in the manufacture or fabrication of aircraft engines and gas turbine engines.
- A new exemption is created for the sale or lease of taxicabs equipped with a device designed to enable the transportation of physical disabled persons.

Entertainment Industry Financial Incentive Program—The bill substantially revamps the priority and eligibility of high-impact television series for tax credits under this program. It also creates and revises several definitions to expand the program to include certain interactive websites. The program is extended for an additional year and \$42 million in tax credits in FY 2015-16.

Urban High-Crime Area Job Tax Credit—The bill modifies the number of qualified employees businesses must have in certain circumstances to be eligible for the credit. The modification is made temporarily retroactive.

Corporate Income Tax Exemption—The bill increases the current corporate income tax exemption from net income from \$25,000 to \$50,000.

Enterprise Zones—The bill permits Charlotte and Citrus Counties to apply for designation of enterprise zones.

Government Procurement Preferences to Florida Businesses

- The bill provides a five percent preference for Florida vendors in purchases of printing and tangible personal property by state agencies, universities, colleges, school districts and other political subdivisions of the state, but does not apply to counties or municipalities. For tangible personal property purchases, if the low bid is submitted by an out-of-state vendor whose home state grants a preference to in-state businesses, the preference to the Florida business shall equal that preference amount.
- The bill provides an exemption from the competitive bidding requirement in current law to Florida statewide nonprofit corporations that provide statewide public service announcement programs, with a guaranteed documented match of at least \$3 to \$1.
- The bill provides that a vendor whose principal place of business is in Florida may not be precluded from being an authorized reseller of information technology commodities of a state contractor if certain criteria are met.

Alcoholic Beverages/Distilled Spirits—The bill permits distilled spirits greater than 153 proof to be distilled, bottled, packaged, or processed for export for sale outside the state.

Sale of a Municipal Airport—Authorizes a municipality participating in the Federal Aviation Administration's Airport Privatization Pilot Program to lease or sell an airport to a private party.

Sales Tax Holiday—The bill establishes a three day period, August 3, 2012 through August 5, 2012, during which certain items will be exempt from sales tax. During the sales tax holiday, clothing, footwear, wallets, and bags that cost \$75 or less, and school supplies that cost \$15 or less are exempt from the state sales tax and county discretionary sales surtaxes.

Appropriation—The bill provides an appropriation of \$14.9 million of nonrecurring General Revenue funds to the State Economic Enhancement and Development Trust Fund for various economic development incentives.

Except as otherwise expressly provided in the bill, the bill takes effect July 1, 2012.

The total estimated FY 2012-13 revenue impacts of the bill are -\$65.3 million (-\$115.3 million recurring) to the state, and -\$13.0 million (-\$18.7 million recurring) to local governments. Also see FISCAL ANALYSIS section for details.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

The bill contains several provisions designed to encourage economic development in Florida. Except as otherwise noted, the bill takes effect July 1, 2012.

Intangible Personal Property Tax on Governmental Leaseholds

Current Situation

Certain leasehold and other possessory interests in governmental property are subject to an annual intangible personal property tax.¹ The tax is on leasehold estates, or any possessory interest created thereby, in property of the United States, the State of Florida, or any of its political subdivisions, municipalities, agencies, authorities, or other governmental units if the leased property is undeveloped or predominately used for a residential or commercial purpose, and rental payments are due in consideration of the leasehold estate or possessory interest. The tax is 0.5 mills on the value of the leasehold estate. If the calculated tax due is less than \$60, no payment is required.

Proposed Changes

The bill provides an exemption from the annual intangible personal property tax on leasehold interests in governmental property when the lessee serves or performs a governmental, municipal, or public purpose or function, as defined in s. 196.012(6), F.S.

The change takes effect upon the bill becoming law and applies retroactively to all governmental leaseholds in existence as of January 1, 2011.

Cigarette Tax

Current Situation

Chapter 210, F.S., provides for the taxation of tobacco products. Taxes are imposed on the sale of cigarettes and other non-cigar tobacco products in Florida. For cigarettes of a common size, the tax rate is \$0.339 per pack. Additionally, a \$1.00 surcharge per pack of common size cigarettes is imposed. For other tobacco products, the tax is at 25 percent of wholesale price, with an additional surcharge of 60 percent of wholesale price. The cigarette tax is collected by the Department of Business and Professional Regulation and deposited into Cigarette Tax Collection Trust Fund.

Section 210.20(2), F.S., provides for monthly distribution from the cigarette tax (not the surcharge) as follows:

Distribution from total collections:

- 8 percent to General Revenue Service Charge²; and
- 0.9 percent to the Alcoholic Beverage and Tobacco Trust Fund³.

Distribution from remaining collections:

- 2.9 percent to Revenue Sharing Trust Fund for Counties;

¹ See s. 196.199(2)(b), F.S. and ch. 2006-312, L.O.F.

²Section 215.20, F.S.

³Section 210.02, F.S.

- 29.3 percent to Public Medical Assistance Trust Fund;
- 1.47 percent to Board of Directors of the H. Lee Moffitt Cancer Center and Research Institute (Moffitt); and
- The remainder of funds to General Revenue.

Below is the distribution of the cigarette tax by funding source:

Distribution from Cigarette Tax (millions)

Fiscal Year	Total Distribution*	General Revenue**	County Revenue Sharing	Public Medical Assistance Trust Fund	Moffitt Cancer Center
2010-11	308.8	214.1	8.2	80.7	5.6
2009-10	298.2	204.2	8.0	80.3	5.6
2008-09	415.1	208.9	11.1	112.3	5.7
2007-08	406.3	269.2	10.9	110.3	10.8
2006-07	417.4	277.0	11.2	113.2	15.9

* Distributions do not include refunds or administrative costs.

** Includes an 8 percent General Revenue Service Charge.⁴

Proposed Changes

The bill creates s. 210.20(2)(c), F.S., to provide that beginning July 1, 2013, through June 30, 2021, one percent of net cigarette tax collections will be directed to the Biomedical Research Trust Fund. These funds will be utilized by the Department of Health and the Sanford-Burnham Medical Research Institute to establish activities and grant funding for biomedical research. The funds appropriated annually will not exceed \$3 million from the Biomedical Research Trust Fund.

The bill also amends s. 210.20(2)(b), F.S., to provide that beginning July 1, 2013, through June 30, 2033, the Moffitt Center funding distribution will increase from 1.47 percent to 2.75 percent of net cigarette tax collections. Also, the bill adds to the list of allowable uses of the funds to include:

- Financing, operating, and maintaining clinical and related facilities;
- Furnishing, equipping, operating, and maintaining other properties owned or leased by the Moffitt Center; and
- Paying costs incurred in connection with purchasing, financing, operating, and maintain such equipment, facilities, and properties.

The bill removes from statute a reference to a cancer research facility at the University of South Florida being adjacent to Moffitt.

The bill amends s. 210.201, F.S., to conform to similar changes in s. 210.20, F.S., related to Moffitt facilities funding and usage described above.

⁴Section 215.20, F.S.

Tax on the Severance of Phosphate Rock

Current Situation

Severance of phosphate rock is taxed at a statutory base rate that is generally adjusted each year by calculating the change in the Bureau of Labor Statistics producer price index during the previous calendar year compared to the unadjusted producer price index for 1999⁵.

In 2008, an additional surcharge of \$1.38 per ton severed was imposed, and the base tax rate was set at \$1.945 per ton severed. This excise tax rate remained in effect until the last date of the fiscal quarter following the date when revenues collected from the surcharge exceeded \$60 million⁶. In 2010, the Legislature reset statutory rates and provided that the base rate adjustment described above would not go into effect until each taxpayer had exhausted their “surcharge offset” (the difference between the rates that would have been charged based on the adjusted base rate and the actual statutory taxes paid). The base rate for FY 2010-11 was set at \$1.71 per ton severed, decreasing to \$1.61 per ton severed beginning in FY 2011-12. The Department of Revenue estimates that the “surcharge offset” will be exhausted by FY 2015-16, and that the adjusted rate will then increase to \$2.54.

The severance tax imposed is distributed 35.7 percent to General Revenue, 25.5 percent to the Conservation and Recreation Lands Trust Fund, 12.8 percent to the counties where the rock is produced, 10 percent to counties that have been designated as a rural area of critical economic concern, 6.2 percent to the Nonmandatory Land Reclamation Trust Fund, 6.2 percent to the Phosphate Research Trust Fund, and 3.6 percent to the Minerals Trust Fund.

Proposed changes

The bill sets the phosphate tax rate at \$1.61 per ton severed, except for the time period from January 1, 2015, until December 21, 2022, where it is set at \$1.80 per ton severed. The base rate adjustment mechanism described above is eliminated. During the seven years where the tax is set at \$1.80, the distribution is changed to 31.9 percent to General Revenue, 22.8 percent to the Conservation and Recreation Lands Trust Fund, 11.5 percent to the counties where the rock is produced, 8.9 percent to counties that have been designated as a rural area of critical economic concern, 16.1 percent to the Nonmandatory Land Reclamation Trust Fund, 5.6 percent to the Phosphate Research Trust Fund, and 3.2 percent to the Minerals Trust Fund. Following December 31, 2022, the distribution returns to that under current law.

Tax on Severance and Production of Oil

Current Situation

Section 211.02(1), F.S., provides for a severance tax to be levied upon production of oil within Florida for sale, transport, storage, profit, or commercial use. The tax is measured by the value of the oil produced and saved or sold during a month. The current tax rate for small well oil⁷ is five percent of the gross value. The tax rate for tertiary oil⁸ varies based on the gross value of the oil and applies as

⁵ There is no Bureau of Labor Statistics phosphate rock producer price index for 1999, forcing the Department of Revenue to select a comparable index through rulemaking.

⁶ The \$60 million was reached during 2010, and phosphate rock producers were no longer required to remit the surcharge as of January 1, 2011.

⁷ “Small well oil” is defined in s. 211.01(21), F.S., as oil produced from a well from which less than 100 barrels of oil per day are severed, considering only those days of the month during which production of oil from the well actually occurred.

⁸ “Tertiary oil” is defined in s. 211.02(3)(a), F.S., as the excess barrels of oil produced, or estimated to be produced, as a result of the actual use of a tertiary recovery method in a qualified enhanced oil recovery project, over the barrels of oil which could have been produced by continued maximum feasible production methods in use prior to the start of tertiary recovery. A “qualified enhanced oil recovery project” means a project for enhancing recovery of oil which meets the requirements of 26 U.S.C. s. 43(c)(2) or substantially similar requirements.

follows: one percent of the gross value of oil on the value of oil \$60 dollars and below; seven percent of the gross value of oil on the value of oil above \$60 and below \$80; and nine percent of the gross value of oil on the value of oil \$80 and above. The tax rate for all other oil is eight percent of the gross value.

The Florida Department of Environmental Protection (DEP) oversees permitting for oil and gas drilling, production, and exploration within Florida. According to the DEP's 2010 Oil, Gas, and Water Production Data for the State of Florida⁹, there are 22 oil fields in Florida, eleven of which are plugged and abandoned. Sixteen of the 22 total oil fields in Florida were discovered prior to 1981, seven of which are currently plugged and abandoned. Two of the seven plugged and abandoned fields discovered prior to 1981 are located in Northwest Florida, and the remaining five are located in Southwest Florida. The plugged and abandoned fields in Florida produced a cumulative total of 17,459,000 barrels of oil while in operation.

Distribution of Proceeds

The severance tax collected on oil and gas production in Florida is placed in the Oil and Gas Tax Trust Fund. Pursuant to s. 211.06, F.S., the proceeds from oil severance taxes in this fund are credited as follows:

For proceeds of the tax on small well oil and tertiary oil:

- 67.5% to the General Revenue Fund
- 20% to the board of county commissioners in county where the oil was produced
- 12.5% to the Minerals Trust Fund

For proceeds of the tax on all other oil:

- 75% to the General Revenue Fund
- 12.5% to the board of county commissioners in county where the oil was produced
- 12.5% to the Minerals Trust Fund

Proposed Changes

The bill amends s. 211.02(1), F.S., to define a new class of oil, "mature field recovery oil," and to apply the tiered tax rates of 1 percent of the gross value of oil on the value of oil \$60 dollars and below; seven percent of the gross value of oil on the value of oil above \$60 and below \$80; and nine percent of the gross value of oil on the value of oil \$80 and above to that newly defined class. The bill defines "mature field recovery oil" as "the barrels of oil recovered from new wells that begin production after July 1, 2012, in fields that were discovered prior to 1981." As noted above, 16 of Florida's 22 oil fields were discovered prior to 1981, and seven of those fields are currently plugged and abandoned (five in Southwest Florida).

Distribution of Proceeds

Section 206.11, F.S., is amended by the bill to change the distribution of the severance tax collected on small well oil, tertiary oil, and mature field recovery oil production to 63.5 percent to General Revenue (reduced from 67.5 percent), 16.5 percent to the Minerals Trust Fund (increased from 12.5 percent), while the 20 percent distributed to the board of county commissioners of the county where the oil is produced remains unchanged.

⁹ 2010 Oil, Gas, and Water Production Data for the State of Florida
http://www.dep.state.fl.us/water/mines/oil_gas/water_production.htm (last accessed March 14, 2012)

Electricity used in Packinghouses Sales Tax Exemption

Current Situation

Generally, the sale of electrical power or energy in Florida for non-residential purposes is subject to sales tax at the rate of seven percent.¹⁰ Section 212.08(5)(e), F.S., provides an exemption from this tax for electricity used directly or indirectly for production or processing of agricultural products on the farm, including electricity used for packing fresh fruit, vegetables, or meat from cattle or hogs in a packinghouse located on a farm.

Proposed Changes

The bill amends s. 212.08(5)(e), F.S., to specifically provide that electricity used directly or indirectly in a packinghouse is also exempt from the taxes imposed by ch. 212, F.S. The bill defines a packinghouse to mean any building or structure where fruits, vegetables, or meat from cattle or hogs are packed or otherwise prepared for market or shipment in fresh form for wholesale distribution.

The bill specifies that the tax exemption does not apply to electricity used in buildings or structures where agricultural products are sold at retail.

This change is effective January 1, 2013.

Industrial Machinery and Equipment used by an Expanding Business Sales Tax Exemption

Current Situation

Generally, the sale at retail of tangible personal property, including industrial machinery and equipment, in Florida is subject to sales tax.¹¹ Section 212.08(5)(b)2., provides an exemption for the purchase of industrial machinery and equipment by an expanding business under specified conditions:

- The industrial machinery and equipment must be purchased for exclusive use by an expanding facility engaged in spaceport activities or for use in expanding manufacturing facilities or plant units that manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state, and must be used to increase the productive output of the expanded facility or business by not less than 10 percent, following the complete installation of the industrial machinery and equipment.
- “Productive output” is defined as the number of units produced by a single plant, product line, or operation in a single continuous 12-month period.¹²
- “Industrial machinery and equipment” is defined as tangible personal property or other property that has a depreciable life of three years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities.¹³

Proposed Changes

The bill reduces the required increase in productive output in order to qualify for the exemption from 10 percent to five percent.

This change is effective January 1, 2013.

¹⁰Section 212.05(1)(e)1.c., F.S.

¹¹ Section 212.05(1)(a), F.S.

¹² Section 212.08(5)(b)6.b., F.S.

¹³ Section 212.08(5)(b)6.a., F.S. This statute also specifies certain items that are included and/or excluded from the definition.

Aircraft Engine and Gas Turbine Engine Sales Tax Exemption

Current Situation

Generally, the sale at retail of tangible personal property in Florida is subject to sales tax.¹⁴ This includes the sale or use of items consumed in manufacturing and fabricating aircraft engines and gas turbine engines. Items that become component parts of engines can be purchased tax exempt, as purchases for resale. Gas turbine engines are used in a variety of applications, including power generation, marine activities, and aviation.

Proposed Changes

The bill creates an exemption from the tax imposed under ch. 212, F.S., for chemicals, machinery, parts, and equipment used and consumed in the manufacture or fabrication of aircraft engines and gas turbine engines, including cores, electrical discharge machining supplies, brass electrodes, ceramic guides, reamers, grinding and deburring wheels, Norton vortex wheels, argon, nitrogen, helium, fluid abrasive cutters, solvents and soaps, boroscopes, penetrants, patterns, dies, and molds consumed in the production of castings.

This change is effective January 1, 2013.

Aircraft Repair and Maintenance Parts, Labor, and Equipment Sales Tax Exemptions

Current Situation

Generally, the retail sale of repair parts and labor are subject to sales tax in Florida.¹⁵

Section 212.08(7)(ee), F.S., provides an exemption for aircraft repair and maintenance labor charges for “qualified aircraft”,¹⁶ for aircraft of more than 15,000 pounds maximum certified takeoff weight, and for rotary wing aircraft of more than 10,000 pounds maximum certified takeoff weight.

Section 212.08(7)(rr), F.S., provides an exemption for equipment, parts, and replacement engines used in aircraft repair and maintenance for “qualified aircraft”, for aircraft of more than 15,000 pounds maximum certified takeoff weight, and for rotary wing aircraft of more than 10,300 pounds maximum certified takeoff weight.

Proposed Changes

The bill changes one of the criteria for these exemptions by lowering the weight requirement for aircraft from being required to be more than 15,000 pounds maximum certified takeoff weight to being more than 2,000 pounds maximum certified takeoff weight. The bill does not affect the current exemptions for qualified aircraft or rotary wing aircraft.

This change is effective January 1, 2013.

¹⁴ Section 212.05(1)(a), F.S.

¹⁵ Sections 212.05(1)(a) and 212.02(16), F.S.

¹⁶ “Qualified aircraft” are certain aircraft of less than 10,000 pounds maximum certified takeoff weight. See Section 212.02(33), F.S. To be eligible for the exemptions under s. 212.08(7), F.S., qualified aircraft purchasers or lessees must also comply with s. 212.0801, F.S., requiring participating in university flight training or research programs.

Accessible Taxicab Sales Tax Exemption

Current Situation

Generally, the sale or lease of tangible personal property, including passenger vehicles, in Florida is subject to sales tax.¹⁷

Proposed Changes

The bill exempts the sale or lease of “accessible taxicabs.” The term “accessible taxicab” is defined to be a passenger vehicle which transports 8 or fewer people and which is equipped with a lift, ramp, or other device specifically designed to enable the transportation of physically disabled persons. The vehicle must also comply with the accessibility requirements of the Americans with Disabilities Act to qualify.¹⁸ If the device is installed through an aftermarket conversion of a stock vehicle, only the value of the conversion is exempt.

This change is effective January 1, 2013.

Entertainment Industry Financial Incentive Program

Current Situation

The Office of Film and Entertainment currently administers the Entertainment Industry Financial Incentive Program, which awards transferrable tax credits for certain expenditures associated with film, television, and digital media productions. Generally, the credits are 20 percent of qualified expenditures, with additional amounts available in certain circumstances. Sections 288.1254 and 288.1258, F.S., govern the administration of this incentive program.

The aggregate amount of tax credits authorized is \$53.5 million for fiscal year 2010-11, \$74.5 million for fiscal year 2011-12, and \$42 million for each of fiscal years 2012-13, 2013-14 and 2014-15. Any portion of the maximum annual amount of tax credits that is not certified as of the end of a fiscal year shall be carried forward and made available for certification during the following two fiscal years. If the total amount of certified credits applied for in any particular fiscal year exceeds the aggregate amount of credits authorized, such excess must be treated as having been applied for on the first day of the next fiscal year in which credits remain available for allocation. Any tax credits awarded to a certified production company may be carried forward for a maximum of five years from the date of the award.

Definitions

“Digital media project” is defined as a production of interactive entertainment produced for distribution in commercial or educational markets and includes video games.

Queues

There are currently three separate categories, or “queues” of productions eligible for the tax credit.

General Production Queue

- Ninety-four percent of tax credits authorized in any state fiscal year must go to this queue. A qualified production that demonstrates a minimum of \$625,000 in qualified expenditures in Florida is eligible for tax credits equal to 20 percent of its actual qualified expenditures, up to a maximum of \$8 million in credits.

¹⁷ Section 212.05(1)(a), F.S.

¹⁸ 49 C.F.R. ss. 38.23, 38.25, and 38.31, as amended

- A qualified production spanning multiple state fiscal years may combine qualified expenditures from such fiscal years to satisfy the \$625,000 threshold. Certain off-season productions are eligible for an additional five percent tax credit. Any production that spends at least 85 percent of its expenditures within an “underutilized region” may receive an additional five percent tax credit. The program also provides an additional 15 percent credit on qualified expenditures that are compensation paid to specified students. There is a five percent bonus credit for filming at least 50 percent of principal photography at a “qualified production facility”.
- A qualified high-impact television series is allowed first position in this queue under certain circumstances. High impact television series are allowed to apply for no more two successive seasons of credits even if the second season has not yet been picked up by a network. Digital media projects with qualified expenditures greater than \$4.5 million are also granted first priority in the queue. Between digital media projects with qualified expenditures greater than \$4.5 million and eligible high-impact television series, priority is first-come, first-served.
- Any new television series or television pilot is prohibited from being allowed into the general production queue if more than 25 percent of credits over the history of the program have been granted to television.

Commercial and Music Video Queue

- Three percent of tax credits authorized in any state fiscal year must go to this queue;
- The credit is 20 percent of qualified expenditures, up to a maximum of \$500,000, if:
 - A minimum of \$100,000 in qualified expenditures per commercial or music video; and
 - A total of \$500,000 in qualified expenditures.
- Surplus tax credits remaining in this queue at the end of the fiscal year rollover into the new fiscal year under the general production queue.

Independent and Emerging Media Production Queue

- Three percent of tax credits authorized in any state fiscal year must go to this queue;
- Excludes commercials, infomercials and music videos; and
- Any qualified production that demonstrates at least \$100,000, but not more than \$625,000, in total qualified expenditures in Florida is eligible for tax credits equal to 20 percent of its actual qualified expenditures.

Proposed Changes

Definitions

The bill creates and modifies several definitions related to the incentive program. The definition of “digital media project” is expanded to include interactive websites, digital animation, and visual effects including three-dimensional conversions. “Interactive website” is defined to mean a website or group of websites that includes interactive and downloadable content and creates 25 new full-time equivalent positions. The bill also defines “high-impact digital media project” as a digital media project that has qualified expenditures greater than \$4.5 million. The definition of “production” is clarified to confirm the ineligibility of sports news or recap shows.

General Production Queue

The bill significantly revamps the procedures governing the eligibility of high-impact television series for tax credits. If more than 45 percent of the sum of total tax credits initially certified and awarded after

April 1, 2012, total tax credits initially certified after April 1, 2012, but not yet awarded, and total tax credits available for certification after April 1, 2012, but not yet certified has been awarded for high-impact television series, then no high-impact television series is eligible for tax credits under this subparagraph. Tax credits initially certified for a high-impact television series after April 1, 2012, may not be awarded if the award will cause the percentage threshold to be exceeded.

The granting of priority between a high-impact television series and a digital media project with qualified expenditures greater than \$4.5 million is also modified. Terminology used in the queue procedure is conformed to use the newly defined term “high-impact digital media project” to replace the equivalent term of digital media project with qualified expenditures greater than \$4.5 million.

Subject to the 45 percent threshold for high-impact television series, the bill maintains the first-come, first-served method for the first application of either a high-impact television series or a high-impact digital media project; however subsequent applications shall alternate in priority between high-impact television series and high-impact digital media projects. An exception to this rule is allowed under certain circumstances.

The underutilized region bonus is modified to require that 67 percent of a production’s principal photography days must occur within an underutilized region to be eligible for a five percent bonus.

The bill creates a requirement that a production wishing to claim credits for expenditures related to principal photography must have at least 50 percent of principal photography shooting days spent within Florida or must have spent at least \$10 million on qualified production expenditures within this state.

The program is extended for an additional year and \$42 million in tax credits in FY 2015-16.

New Markets Development Program

Current Situation

Under the New Markets Development Program, federally-certified Community Development Entities (CDE), which have entered into allocation agreements with the U.S. Treasury, have the ability to apply to the Department of Economic Opportunity (DEO) for a certification of Florida tax credits. The CDE must show that it is prepared to invest capital into qualified businesses in Florida’s low-income communities. The certification process includes proof of the CDE’s eligibility, identification of its investors, description of the investments to be raised by the CDE, information regarding how the investments will be used, and a description of the CDE’s efforts to partner with local community-based groups. DEO is also able to request additional information needed to verify continued certification. DEO certifies qualified applications on a first-come, first-served basis. Once DEO certifies a CDE’s qualified equity investment, the CDE has 30 days to raise its investment capital (the qualified equity investment) and then 12 months to invest a minimum of 85 percent of the purchase price in qualified low-income investments. Thereafter, the CDE must annually report to DEO information including:

- Audited financial statements;
- The industries for the investments;
- The counties investments were made in; the number of jobs created; and
- Verification that the average wages paid are at least equal to 115 percent of the federal poverty income guidelines for a family of four.

Any failure by a CDE to follow either Florida or federal law may result in the state recapturing tax credits claimed, together with interest and penalties.

Current law prohibits a CDE from making cash payments on long-term debt securities that are qualified investments in excess of the CDE's operating income for six years following the issuance of the security. Current administration of the program requires interest payments to be deducted from operating income for purposes of the above determination, which creates an artificial limitation on the ability of CDEs to make interest payments.

Tax Credits

The New Markets Tax Credit Program (NMTC) allows a tax credit to be taken against corporate income tax or insurance premium tax. This credit may be claimed after the investment has been made and held for a minimum of two years. Therefore, no credit can be claimed in the first two years after the investment has been made. In year three the credit is worth seven percent of the investment, and from the fourth year through the seventh year the credit is worth eight percent. Over seven years this credit totals 39 percent of the total investment. Any unused portion of the tax credit may be carried forward for future tax years; however, all tax credits expire on December 31, 2022. The program has a cap of \$97.5 million on the total of tax credits allowed to be allocated to all investments. No more than \$17.5 million in tax credits may be claimed in the third fiscal year and no more than \$20 million in tax credits may be claimed in any of the subsequent four fiscal years. The NMTC does not allow the transfer or sale of tax credits, but does allow a tax credit to "travel" with the purchase of an investment to a new owner.

Federal New Markets Tax Credit

The State New Markets Development Program was mirrored after the federal program. The Federal New Markets Tax Credit¹⁹ (NMTC) Program permits taxpayers to receive a credit against federal income taxes for making qualified equity investments in designated CDEs. The CDE must in turn invest the qualified equity investments in low-income communities. The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a seven-year period. In each of the first three years, the investor receives a credit equal to five percent of the total amount paid for the stock or capital interest at the time of purchase. For the final four years, the value of the credit is six percent annually. Investors may not redeem their investments in CDEs prior to the conclusion of the seven-year period. An organization wishing to receive allocations under the federal NMTC Program must be certified as a CDE by the US Department of Treasury. To qualify as a CDE, an organization must:

- Be a domestic corporation or partnership at the time of the certification application;
- Demonstrate a primary mission of serving, or providing investment capital for low-income communities or low-income persons; and
- Maintain accountability to residents of low-income communities through representation on a governing board of or advisory board to the entity.

As stated above, both the federal program and the state program provide credits totaling 39 percent of the investment over a seven year period. Therefore, a qualified taxpayer with a qualified investment approved for both the federal and state program could receive 78 percent of the purchase price of the investment in tax credits over seven years. In addition to the tax credits that are received, the investor also has the potential to receive benefit from the results of the investment and eventual return of their principal.

¹⁹ Federal New Markets Tax Credit Program. http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5 (last visited January 29, 2012)

Proposed Changes

The bill amends s. 288.9914(3), F.S., increasing the total amount of tax credits available to be allocated for the program from \$97.5 million to \$163.8 million, also increasing the amount of tax credits available in a single year from \$20 million to \$33.6 million.

The bill also amends s. 288.9915(1), F.S., increasing from six to seven the number of years that a qualified community development entity is prohibited from making cash interest payments in excess of their operating income on long term debt securities issued as qualified investments. The bill further provides that interest expense on debt securities will not be included in the calculation of operating income for purposes of the above limitation.

These changes are effective upon the bill becoming law.

Enterprise Zones

Current Situation

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 59 enterprise zones.

Designation Process

Sections 290.001-290.016, F.S., authorize the creation of an enterprise zone and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that an area:

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
- Can be revitalized through the inducement of the private sector.

DEO is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

As outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least eight, and no more than 13, members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and

- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Pursuant to s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area;
- Describe how the community's social and human resources—transportation, housing, community development, public safety, and education and environmental concerns—will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Available Incentives

Florida's enterprise zones qualify for various incentives from local governments. Examples include: utility tax abatement, reduction of local business taxes, reduced building permit fees or land development fees, and local funds for capital projects.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an EZ: Provides a refund for sales taxes paid on the purchase of certain building materials, up to \$5,000 or 97 percent of the tax paid, whichever is less.²⁰
- Business Property Used in EZ: Provides a refund for sales taxes paid on the purchase of certain equipment, up to \$5,000, or 97 percent of the tax paid, whichever is less.²¹
- EZ Jobs Credit against Sales Tax: Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the EZ.²²
- Rural EZ Jobs Credit against Sales Tax: Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees if the business is within a rural EZ.²³
- Community Contribution Tax Credit: Provides a sales tax refund for 50 percent of donations made to local community development projects.²⁴
- Electrical Energy Used in an EZ: Provides a 50 or 100 sales tax exemption to qualified businesses located within an EZ on the purchase of electrical energy.²⁵

²⁰ Section 212.08(5)(g), F.S.

²¹ Section 212.08(5)(h), F.S.

²² Section 212.096, F.S.

²³ Id., Section 290.004, F.S.

²⁴ Section 212.08(5)(p), F.S.

Available state corporate income tax incentives for enterprise zones include:

- EZ Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the EZ.²⁶
- Rural EZ Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees if the business is within a rural EZ.²⁷
- EZ Property Tax Credit: Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.²⁸
- Community Contribution Tax Credit: Provides a 50 percent credit against Florida corporate income tax for donations made to local community development projects.²⁹

OPPAGA Report on Enterprise Zones³⁰

The Office of Program Policy Analysis and Government Accountability released a report in January 2011 finding that most enterprise zone activity occurs in a few number of counties. The report also found that program participation remains relatively low in most enterprise zones, which limits the progress toward achieving the legislative goals of revitalizing distressed areas and increasing employment of area residents. The report made several recommendations related to the viability of the program, suggesting that the Legislature could:

- Encourage more participation by lowering incentive eligibility thresholds;
- Focus on job creation by eliminating all incentives except jobs tax credits;
- Suspend the program for a year;
- Repeal the program entirely; or
- Allow it to sunset under current law in 2015.

Proposed Changes

The bill provides authority to Charlotte County to apply to DEO for designation of an enterprise zone of up to 20 square miles. The enterprise zone application must be submitted to DEO by December 31, 2012. DEO will determine the initial effective date of the enterprise zone.

The bill also provides authority to Citrus County to apply to DEO for designation of an enterprise zone. The enterprise zone application must be submitted to DEO by December 31, 2012. DEO will determine the initial effective date of the enterprise zone.

Government Procurement Preferences to Florida Businesses

Current Situation

Public Printing Vendor Preference

²⁵ Section 212.08(15), F.S.

²⁶ Section 220.181, F.S.

²⁷ Id., Section 290.004, F.S.

²⁸ Section 220.182, F.S.

²⁹ Section 220.183, F.S.

³⁰ Report no. 11-01- Few Businesses Take Advantage of Enterprise Zone Benefits; the Legislature Could Consider Several Options to Modify the Program, January 2011. Office of Program Policy Analysis and Government Accountability. Report at available <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=11-01> (last visited 1/29/12).

Chapter 283, F.S., regulates the procurement of printing services by governmental entities. Current law provides that every agency³¹ must give a preference to vendors located within the state when awarding contracts to have materials printed, whenever such printing can be provided at a cost no greater than the cost of awarding a contract to a vendor located outside of the state.³² In addition, the level of quality must be comparable to that obtainable from the vendor located outside of the state.³³

Procurement of Personal Property and Services

Chapter 287, F.S., regulates state agency³⁴ procurement of personal property and services. The Department of Management Services is responsible for overseeing state purchasing activity including professional and contractual services as well as commodities needed to support agency activities, such as office supplies, vehicles, and information technology.³⁵ The Division of State Purchasing in the department establishes statewide purchasing rules and negotiates contracts and purchasing agreements that are intended to leverage the state's buying power.

Agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These include the following:

- "Single source contracts," which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- "Invitations to bid," which are used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- "Requests for proposals," which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- "Invitations to negotiate," which are used when negotiations are determined to be necessary to obtain the best value and involve a request for high complexity, customized, mission-critical services, by an agency dealing with a limited number of vendors.³⁶

Current law requires contracts for commodities or contractual services in excess of \$35,000 to be procured utilizing a competitive solicitation process.^{37,38}

Local governmental units are not subject to the provisions of Chapter 287, F.S. Local governmental units may look to Chapter 287, F.S., for guidance in the procurement of goods and services, but many have local policies or ordinances to address competitive solicitations.

Florida In-State Preference

³¹ Section 283.30(1), F.S., defines the term "agency" to mean any official, officer, department, board, commission, division, bureau, section, district, office, authority, committee, or council, or any other unit of organization, however designated, of the executive branch of state government, and the Public Service Commission.

³² Section 283.35, F.S.

³³ *Id.*

³⁴ As defined in s. 287.012(1), F.S., "agency" means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. "Agency" does not include the university and college boards of trustees or the state universities and colleges.

³⁵ See ss. 287.032 and 287.042, F.S.

³⁶ See ss. 287.012(6) and 287.057, F.S.

³⁷ Section 287.057(1), F.S., requires all projects that exceed the Category Two (\$35,000) threshold contained in s. 287.017, F.S., to be competitively bid.

³⁸ As defined in s. 287.012(6), F.S., "competitive solicitation" means the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement.

Florida law authorizes state agencies, counties, municipalities, school districts, and other political subdivisions to use a preference in the award of contracts for the purchase of personal property through competitive solicitation when the lowest responsible and responsive bid, proposal, or reply is by a vendor whose principal place of business is another state.³⁹ The reciprocal preference is discretionary and may be used by a procuring entity to award a preference to the lowest responsible and responsive vendor having a principal place of business in this state.⁴⁰ The preference available is limited to the preference provided for by an out-of-state bidder's home state.⁴¹ Florida state and local agencies can only apply a preference against a vendor from another state if, and to the extent that, the vendor's home state imposes a preference on Florida bidders.⁴²

If a solicitation to purchase personal property provides for the granting of a preference, any vendor whose principal place of business is not in Florida must submit with the bid, proposal, or reply documents a written opinion of an attorney, licensed in the vendor's state, explaining the preferences that the vendor's state provides to vendors for public contracts.⁴³

Florida's preference law does not apply to transportation projects for which federal aid funds are available.⁴⁴

Florida Home Rule

In 1973, the Florida Legislature enacted the Municipal Home Rules Power Act (act), now codified in Chapter 166, F.S.⁴⁵ The act guarantees that local governments retain governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services.⁴⁶ The act further dictated that local governments should be allowed to enact legislation unless clearly directed otherwise by the state.⁴⁷

Proposed Changes

Public Printing Vendor Preference

The bill expands the application of the in-state vendor printing preference to each university, college, school district, or other political subdivision of this state. Counties and municipalities are expressly excluded. Each agency, university, college, school district, or other political subdivision must apply the in-state vendor printing preference when soliciting printing contracts. The preference is set at five percent if the lowest bid is submitted by a vendor whose principal place of business is located outside of Florida and if the printing can be performed in Florida at a level of quality comparable to that

³⁹ Section 287.084(1), F.S.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Currently, 38 states have reciprocal procurement preferences. See Oregon State Procurement Office, *Reciprocal Preference Information*, available online at <https://www.oregon.gov/DAS/SSD/SPO/reciprocal.shtml> (last visited on January 18, 2012).

⁴³ Section 287.084(2), F.S.

⁴⁴ See s. 287.084(1), F.S. The Common Grant Rule issued by the U.S. Department of Transportation, 49 C.F.R.s. 18.36(c)(2), prohibits the use of state or local geographical preferences in the evaluation of bids or proposals for projects involving federal funds.

⁴⁵ See Chapter 166, F.S.

⁴⁶ Section 166.021(4), F.S.

⁴⁷ Section 166.021(3), F.S., provides:

(3) The Legislature recognizes that pursuant to the grant of power set forth in s. 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state Legislature may act, except:

(a) The subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution;

(b) Any subject expressly prohibited by the constitution;

(c) Any subject expressly preempted to state or county government by the constitution or by general law; and

(d) Any subject preempted to a county pursuant to a county charter adopted under the authority of ss. 1(g), 3, and 6(e), Art. VIII of the State Constitution.

obtainable from the vendor submitting the lowest bid located outside the state. The bill no longer requires that the printing be performed by the in-state vendor at an expense no greater than what the out of state vendor would charge.

Vendor Preference for Procurement of Personal Property

The bill requires state agencies, universities, colleges, school districts, and other political subdivisions to utilize the in-state vendor preference for the procurement of personal property. Counties and municipalities are expressly excluded from the definition of "other political subdivisions." The ability to apply the in-state vendor preference is no longer discretionary. It provides that agencies, universities, colleges school districts, and other political subdivisions must give a vendor who's principle place of business is in Florida and who offered the lowest bid, a preference to the same extent as an out of state vendor would receive in his or her home state. This bill does not hinder a local government's authority to provide local procurement preferences by ordinance or regulation.

In a competitive solicitation in which the lowest bid is submitted by a vendor whose principal place of business is located outside the state and that state does not grant a preference in competitive solicitation to vendors having a principal place of business in that state, the bill requires that a five percent preference be given to the lowest responsible and responsive vendor having a principal place of business in Florida.

The bill provides an exemption from the competitive bidding requirement in current law to Florida statewide nonprofit corporations that provide statewide public service announcement programs, with a guaranteed documented match of at least \$3 to \$1.

The bill extends the current statutory preference to Florida businesses to provide that a vendor whose principal place of business is in Florida may not be precluded from being an authorized reseller of information technology commodities of a state contractor if certain criteria are met.

Alcoholic Beverages/Distilled Spirits

Current Situation

Under current law, s. 565.07, F.S., prohibits the processing, sale or consumption of distilled spirits that are greater than 153 proof in Florida.

Proposed Changes

The bill amends s. 565.07, F.S., permitting distilled spirits that are greater than 153 proof to be distilled, bottled, packaged, or processed for export or sale outside of the state. However, the bill maintains the current prohibition against the sale or consumption of a distilled spirit that is greater than 153 proof in the state.

Sale or Lease of a Municipal Airport

Current Situation

Chapter 332, F.S., contains provisions related to airports and other air navigation facilities. Included are provisions granting municipalities that have established airports general and specified powers. Among the specified powers, municipalities may sell any part of such airports, other air navigation facilities, or real property to any municipal or state government, or the United States or any department or instrumentality thereof. However, current law does not allow for the sale of an airport or other air navigation facility to a private party.

Proposed Changes

The bill provides that a municipality participating in the Federal Aviation Administration's Airport Privatization Pilot Program pursuant to 49 U.S.C. s. 47134 may lease or sell an airport or other air navigation facility or real property, together with improvements and equipment, acquired or set apart for airport purposes to a private party under such terms and conditions as negotiated by the municipality. If state funds were provided to the municipality pursuant to s. 332.007, the municipality must obtain approval of the agreement from the Department of Transportation, which may approve the agreement if it determines that the state's investment has been adequately considered and protected consistent with the applicable conditions specified in 49 U.S.C. s. 47134.

Urban High-Crime Area Job Tax Credit

Current Situation

The Urban High-Crime Area Job Tax Credit Program was created in 1997 to encourage the creation of jobs in urban areas of Florida. The program provides tax credits to eligible businesses that are located within urban areas designated by DEO and hire a specific number of employees. The credit ranges from \$500 to \$2,000 per qualified employee and can be taken against either corporate income or sales and use taxes, but not both. For existing businesses, the number of qualified employees required for the credit is measured against the number of qualified employees the business had one year prior to application for the credit.

Existing businesses that are otherwise eligible can apply for this credit more than once, but not more than once in any twelve month period. When a business is applying for the second time or more, the number of qualified employees the business has at the time of application is measured against the number of qualified employees the business had one year prior to application for the credit, but must be no lower than the number of qualified employees that the employer had on the date of its previous application for this credit.

A total of \$5 million of tax credits may be approved under the Urban Job Tax Credit Program each calendar year.

Proposed Changes

The bill changes one of the dates for the reference period number of employees for existing businesses applying for the second time or more. When a business is applying for the second time or more, the number of qualified employees the business has at the time of application must be no lower than the number of qualified employees that the employer had on the date of its previous application for this credit, as under current law, or on January 1, 2009, whichever occurs later. Any business whose application was originally denied after January 1, 2009, because of the qualified employee requirement in current law may refile their application on or before December 31, 2012, to take advantage of the modified requirement.

Corporate Income Tax Exemption

Current Situation

Florida imposes a 5.5% tax on the net income of corporations doing business in Florida.⁴⁸ Section 220.14, F.S., exempts \$25,000 of net income from the corporate income tax.

Proposed Changes

⁴⁸ Section 220.11, F.S.

For taxable years beginning January 1, 2013, the bill increases from \$25,000 to \$50,000 the amount of corporate income that is exempt from the corporate income tax.

Sales Tax Holiday

Current Situation

Chapter 212, F.S, imposes a 6 percent tax on the retail sale of tangible personal property,⁴⁹ which includes books, clothing, footwear, wallets, bags, school supplies, and computers.

In addition, county governments may impose discretionary sales surtaxes (e.g., indigent care and trauma center surtax, county public hospital surtax, school capital outlay surtax).⁵⁰ County discretionary sales surtaxes (commonly called “local option sales taxes”) apply to all transactions in the county which are subject to the state sales tax.⁵¹

History of Sales Tax Holidays:

Since 1998, the Legislature has enacted ten temporary periods (commonly called “sales tax holidays”) during which certain clothing, footwear, books and school supply items were exempted from the state sales tax and county discretionary sales surtaxes.⁵²

The length of the exemption periods has varied from 3 to 10 days. The type and value of exempt items has also varied. Clothing and footwear has always been exempted. In seven of the nine holidays such items valued at \$50 or less were exempted. Twice, items valued at \$100 or less were exempt. Books valued at \$50 or less were exempt in five periods. School supplies were included in the most recent six holidays, with the value threshold increasing from \$10 to \$15 in the most recent holiday.

Tax Information Publications:

Since 2004, the Department of Revenue has published a Tax Information Publication (TIP) for each sales tax holiday.⁵³ A TIP provides detailed information about the sales tax holiday, including instructions and specific examples, for dealers who collect the tax.

Proposed Changes

The bill provides for a three day sales tax holiday beginning August 3, 2012, at 12:01 a.m. and ending August 5, 2012, at 11:59 p.m. During the sales tax holiday, the following items that cost \$75 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an “article of wearing apparel intended to be worn on or about the human body,” but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags)

⁴⁹ Sections 212.02(19) and 212.05(1)(a)1.a., Florida Statutes.

⁵⁰ Section 212.055, Florida Statutes.

⁵¹ Section 212.054(2)(a), Florida Statutes.

⁵² Chapters 98-341, 99-229, 2000-175, 2001-148, 2004-73, 2005-271, 2006-63, 2007-144, and 2010-93, Laws of Florida.

⁵³ See, e.g. Florida Department of Revenue, [2011 Sales Tax Holiday, TIP# 11A01-03](#) (June 22, 2011)

During the sales tax holiday, the bill also exempts “school supplies” that cost \$15 or less per item. “School supplies” are defined as pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

The bill provides that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. Thus, sales in these locations will be subject to taxation during the sales tax holiday.

The bill includes an appropriation of \$226,284 of nonrecurring General Revenue funds to the Department of Revenue to administer the sales tax holiday.

Appropriation

The bill provides an appropriation of \$14.9 million of nonrecurring General Revenue funds to the State Economic Enhancement and Development Trust Fund for the 2012-2013 fiscal year. These funds are then appropriated to DEO for the Qualified Target Industries, Qualified Defense Contractors, Brownfield Bonus, High Impact Performance Incentive, Quick Action Closing Fund, Brownfield Redevelopment, Innovation Incentive programs, and transportation facilities, and only for projects that meet the eligibility requirements of law. These funds shall not be released for any other purpose and shall only be disbursed when projects meet the contracted performance requirements.

Emergency Rulemaking Authority

The bill gives the Department of Revenue authority to adopt emergency rules for the purpose of administering the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS

2. Expenditures:

General Revenue in the amount of \$226,284 is appropriated to pay for the cost of administering the sales tax holiday. Additionally, \$14.9 million is appropriated from the General Revenue Fund to the State Economic Enhancement and Development Trust Fund for economic development incentive programs.

The provisions relating to government procurement preferences may result in additional expenditures of an unknown amount.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill is designed to encourage economic development in Florida.

D. FISCAL COMMENTS:

See Revenue Impacts table below.

Revenue Impacts: Fiscal Year 2012-13

(Millions of \$)

	General Rev.		State Trust		Local		Total	
	Cash	Recur.	Cash	Recur.	Cash	Recur.	Cash	Recur.
New Markets (1)	-	(13.6)	-	-	-	-	-	(13.6)
Sales Tax Incentives:								
Back-to-School Holiday	(25.9)	-	(*)	-	(5.9)	-	(31.8)	-
Electricity/Packinghouses	(0.9)	(1.8)	(*)	(*)	(0.1)	(0.4)	(1.0)	(2.2)
Expanding Production M&E	(19.1)	(46.0)	(*)	(*)	(4.3)	(10.4)	(23.4)	(56.4)
Aircraft Maintenance & Repair	(4.2)	(10.0)	(*)	(*)	(0.9)	(2.3)	(5.1)	(12.3)
Aircraft and gas turbine engines	(0.5)	(1.3)	(*)	(*)	(0.1)	(0.3)	(0.6)	(1.6)
Accessible Taxicabs	(0.1)	(0.2)	(*)	(*)	(*)	(*)	(0.1)	(0.2)
Urban High Crime Areas	(3.6)	(2.8)	(*)	(*)	(0.7)	(0.7)	(4.3)	(3.5)
Severance Tax:								
Mature Field Recovery Oil	(0.9)	(1.0)	0.1	0.1	(0.1)	(0.1)	(0.9)	(1.0)
Phosphate	-	(5.6)	-	(3.4)	-	(3.6)	-	(12.6)
Entertainment Industry Incentives	\$42.0 million in FY 2015-16							
Cigarette Tax Distributions	-	(7.6)	-	7.6	-	-	-	-
Governmental Leaseholds	-	-	-	-	(0.9)	(0.9)	(0.9)	(0.9)
Enterprise Zones:								
Charlotte County	(0.2)	(0.2)	(*)	(*)	(*)	(*)	(0.2)	(0.2)
Citrus County	(0.1)	(0.1)	(*)	(*)	(*)	(*)	(0.1)	(0.1)
Corporate Income Tax Exemption	(9.9)	(29.4)	-	-	-	-	(9.9)	(29.4)
BILL TOTAL	(65.4)	(119.6)	0.1	4.3	(13.0)	(18.7)	(78.3)	(134.0)

(*) Insignificant = impact less than \$50,000.

(1) Cash impacts do not begin until FY 2015-16.