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Proposed Committee Substitute by the Committee on Fiscal Policy
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to voluntary contributions for public education facilities; creating s. 215.165, F.S.; authorizing a participating business that registers with the Department of Revenue to solicit and collect contributions from its customers for the construction and maintenance of public education facilities; providing registration requirements; requiring the department to issue a certificate and taxpayer identification number to a participating business; requiring a participating business to file a return and remit contributions to the department within a specified timeframe; requiring the department to deposit contributions into the Public Education Capital Outlay and Debt Service Trust Fund; authorizing the department to adopt rules establishing forms and procedures; providing that certain provisions of law regarding the authority to audit and make assessments and the maintenance of books and records apply to the collection and remittance of voluntary contributions; providing that certain provisions of law regarding interest and penalties, estimated tax liability, and a dealer's credit for collections do not apply to such collections and remittances; authorizing the department to conduct an audit of voluntary contributions or undertake enforcement proceedings under certain circumstances;



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28 requiring the department to provide written
29 notification to a participating business if the
30 department finds during an audit that voluntary
31 contributions were not remitted; providing for the
32 remittance of unremitted contributions without penalty
33 or interest within a specified period; providing for
34 penalties and interest on contributions that are not
35 remitted within the specified period; authorizing
36 participating businesses to deduct a specified
37 percentage of the voluntary contributions collected to
38 compensate themselves for certain expenses; amending
39 s. 1013.65, F.S.; including voluntary contributions as
40 a source of funding for the Public Education Capital
41 Outlay and Debt Service Trust Fund; authorizing the
42 executive director of the department to adopt
43 emergency rules; providing that such rules are
44 effective for a specified period; providing for
45 expiration; providing an effective date.

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47 Be It Enacted by the Legislature of the State of Florida:

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49 Section 1. Section 215.165, Florida Statutes, is created to
50 read:

51 215.165 Voluntary contributions for public education
52 facilities.—A business that registers with the Department of
53 Revenue as a participating business may solicit and collect
54 voluntary contributions from its customers for the construction
55 and maintenance of public education facilities. Such
56 contributions may be solicited and collected through any means,



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57 including point-of-sale transactions and monthly customer
58 invoices.

59 (1) To register as a participating business, the business
60 must provide the department with its name, physical address,
61 mailing address, telephone number, e-mail address, and federal
62 employer identification number. Upon receipt of this
63 information, the department shall issue to the participating
64 business a certificate indicating that the business is
65 registered with the department for the collection of voluntary
66 contributions and providing a taxpayer identification number to
67 be used by the business for returns under this section. The
68 department may issue this certificate electronically or by
69 United States mail.

70 (2) By the 20th day of each month that immediately follows
71 a month in which voluntary contributions were collected, a
72 participating business shall file a return with, and remit the
73 contributions collected during the prior month to, the
74 department. If the 20th day is a Saturday, Sunday, or legal
75 holiday, the return and voluntary contributions are due on the
76 next business day. A participating business may file a return
77 that is initiated by electronic means and may remit voluntary
78 contributions by electronic funds transfer. A return is not
79 required for a period in which voluntary contributions were not
80 collected. A participating business may correct an error in a
81 prior remittance by adjusting the amount remitted on a future
82 return.

83 (3) (a) A participating business shall provide the following
84 information on each return:

85 1. The information required under subsection (1).



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86 2. The taxpayer identification number issued by the
87 department.

88 3. The amount of voluntary contributions collected and the
89 amount of any adjustment to such contributions.

90 4. The amount of voluntary contributions being remitted.

91 (b) If the department receives a return from a business
92 that has not registered as a participating business, the
93 department shall deposit the voluntary contributions pursuant to
94 subsection (4) and shall register the business as a
95 participating business with the information included on the
96 return.

97 (4) The department shall deposit voluntary contributions
98 remitted under this section into the Public Education Capital
99 Outlay and Debt Service Trust Fund.

100 (5) The department may adopt rules to establish forms and
101 procedures for filing returns and remitting voluntary
102 contributions, which may include the use of existing or new
103 forms.

104 (6) The provisions of chapter 212 regarding the authority
105 to audit and make assessments and the maintenance of books and
106 records apply to the collection and remittance of voluntary
107 contributions by participating businesses under this section.
108 The provisions of chapters 212 and 213 regarding interest and
109 penalties, estimated tax liability, and a dealer's credit for
110 collecting taxes or fees do not apply to such collections and
111 remittances, except as provided in paragraphs (a) and (b). The
112 department may not conduct an audit of voluntary contributions
113 or undertake enforcement proceedings under this subsection
114 unless the participating business is otherwise undergoing an



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115 audit for another area of tax.

116 (a) If the department engages in an audit of a
117 participating business under this subsection and finds that
118 voluntary contributions received by the participating business
119 were not remitted to the department, the department shall
120 provide written notification to the participating business of
121 the deficiency. The participating business may remit the
122 unremitted contributions to the department at any time up to 90
123 days after the department provides written notification of the
124 deficiency without incurring any penalty or interest on the
125 unremitted contributions. If the unremitted contributions are
126 not provided to the department for deposit within the 90-day
127 period, the unremitted amount is subject to the penalty imposed
128 under s. 212.12 and interest imposed under s. 213.235, beginning
129 with the 91st day and continuing until the collected amounts are
130 remitted. For purposes of this subsection, the administrative
131 collection processing fee imposed under s. 213.24 does not
132 apply.

133 (b) For the purpose of compensating participating
134 businesses for the maintenance of books and records, the filing
135 of returns, and the proper accounting and remitting of
136 contributions, participating businesses collecting voluntary
137 contributions under this section may deduct 2.5 percent of the
138 amount of voluntary contributions remitted to the department.

139 Section 2. Paragraph (a) of subsection (2) of section
140 1013.65, Florida Statutes, is amended to read:

141 1013.65 Educational and ancillary plant construction funds;
142 Public Education Capital Outlay and Debt Service Trust Fund;
143 allocation of funds.—



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144 (2) (a) The Public Education Capital Outlay and Debt Service
145 Trust Fund shall be comprised of the following sources, which
146 are hereby appropriated to the trust fund:

147 1. Proceeds, premiums, and accrued interest from the sale
148 of public education bonds and that portion of the revenues
149 accruing from the gross receipts tax as provided by s. 9(a)(2),
150 Art. XII of the State Constitution, as amended, interest on
151 investments, and federal interest subsidies.

152 2. General revenue funds appropriated to the fund for
153 educational capital outlay purposes.

154 3. All capital outlay funds previously appropriated and
155 certified forward pursuant to s. 216.301.

156 4. Deposits from voluntary contributions collected pursuant
157 to s. 215.165.

158 Section 3. (1) The executive director of the Department of
159 Revenue is authorized, and all conditions are deemed to be met,
160 to adopt emergency rules pursuant to s. 120.54(4), Florida
161 Statutes, for the purpose of implementing this act.

162 (2) Notwithstanding any other provision of law, emergency
163 rules adopted pursuant to subsection (1) are effective for 6
164 months after adoption and may be renewed during the pendency of
165 procedures to adopt permanent rules addressing the subject of
166 the emergency rules.

167 (3) This section expires July 1, 2018.

168 Section 4. This act shall take effect January 1, 2016.