

**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.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: SB 1320

INTRODUCER: Senator Stargel

SUBJECT: Tax Administration

DATE: March 21, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Cibula	JU	<b>Pre-meeting</b>
2.			AFT	
3.			AP	

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**I. Summary:**

SB 1320 modifies various statutes relating to the administration of taxes. The bill contains recommendations made by the Department of Revenue (Department) and approved by the Cabinet which are designed to reduce the burden on taxpayers. The bill does so by eliminating fees that generate negligible amounts, repealing an obsolete provision requiring the court to report information on probate cases, and affording taxpayers and tax collection service providers greater flexibility in waiving penalties, and extending due dates for filings and tax payments.

The bill eliminates:

- The fees charged for sales and use tax registration; fuel and pollutants licensing; perchloroethylene registration; dry cleaning tax registration; and fuel tax refunds;
- The requirement that circuit court judges report to the Department the names of decedents and estates in probate unless the Department is a creditor of the estate, as changes in law render this requirement obsolete; and
- The requirement that vending machine operators post a notice stating that machines without a posted notice may be reported using a toll-free number and that someone reporting noncompliance may be eligible for a reward.

Additionally, the bill:

- Allows a tax collection service provider to waive a reemployment tax penalty imposed for a failure to file certain quarterly reports electronically if the tax collection service provider finds a penalty to be inequitable;
- Extends due dates for annual filings and installment payments when the due date falls on a weekend or a holiday; and
- Provides specific guidelines for the notification, adoption, and expiration of local ordinances imposing a tax on motor and diesel fuel prior to July 2002.

The Revenue Estimating Conference estimates this bill will reduce recurring revenues to the General Revenue Fund by \$100,000 to \$200,000 in Fiscal Year 2017-2018. The fiscal impact of repealing the fee for sales tax registration and fuel and pollutants licensing is approximately \$138,000 and \$36,000, respectively. The fiscal impact of the repeal of the dry cleaning and perchloroethylene registration fee is insignificant.

This act takes effect upon becoming a law, while the fee eliminations proposed in the bill take effect January 1, 2018.

## II. Present Situation:

The Department of Revenue (Department) presented its legislative agenda to the Governor and Cabinet on September 20, 2016.<sup>1</sup> At the cabinet meeting, the Department proposed various changes to law designed to reduce the burden on taxpayers. The Department specifically recommended eliminating certain fees, eliminating unnecessary reporting and notice requirements, and providing greater flexibility in imposing penalties and extending due dates for filings. The Cabinet approved the agenda item of the Department with the Governor abstaining from the vote.<sup>2</sup> The areas recommended for change are detailed below.

### **Reporting Requirements by the Court (Sections 198.30 and 733.2121, F.S.)**

Section 198.30, F.S., requires circuit court judges to report the names of decedents and other information on estates in probate to both the Department and the Agency for Health Care Administration (AHCA). In addition, personal representatives are required to provide certain information to the Department and AHCA pursuant to s. 733.2121(3), F.S.

### **Fuel and Pollutants License Fees (Sections 206.02, 206.021, 206.022, 206.405, 206.406, 206.9943 and 206.9952, 206.998 F.S.)**

Florida law imposes a \$30 license tax on persons applying for an annual fuel or pollutants license and a \$5 annual fee to obtain a license as a natural gas fuel retailer. The Department issues the taxpayer a receipt, which must be posted on display in public view. All money derived from the license taxes pursuant to s. 206.02, 206.021, 206.022, and 206.404, F.S., must be paid into the state Treasury to the credit of the General Revenue Fund.

### **Fuel Tax Refund Fee (Section 206.41, F.S.)**

Florida law allows certain taxpayers to obtain quarterly refunds of a portion of the tax paid on fuel purchases. These qualified taxpayers must purchase the fuel for use in agriculture, commercial fishing, school buses, mass public transportation, or another authorized purpose. The Department is required to deduct a \$2 fee from each of these quarterly tax refunds.

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<sup>1</sup> *Agenda for Meeting of the Governor and Cabinet* (Sept. 20, 2016); available at: <http://www.myflorida.com/myflorida/cabinet/agenda16/0920/agenda.pdf>.

<sup>2</sup> As the basis for his abstaining from voting on the legislative proposal of the Department, Governor Scott stated, "Florida law requires the Governor to independently review legislation upon passage; accordingly, I'm abstaining from the vote, and the record should reflect the abstention." Transcript, *Meeting of the Governor and Cabinet on September 20, 2016*, pgs. 93-96, available at: <http://www.myflorida.com/myflorida/cabinet/agenda16/0920/transcript.pdf>.

**Vending Machine Notice Requirement (Section 212.0515, F.S.)**

Sales tax is due on the sale of food, beverages, and most items purchased through vending machines in Florida. Vending machine owners are required to register with the Department. Vending machine owners also must display a notice on each vending machine which provides that machines without a posted notice may be reported using a toll-free number and that a person who reports noncompliance may be eligible for a reward. Florida law imposes a \$250 penalty on each vending machine that does not display the notice.

**Sales and Use Tax Registration Fee (Sections 212.0596 and 212.18, F.S.)**

Florida law imposes a \$5 fee on each business location that registers with the Department to collect, report, and remit sales and use tax. However, the \$5 registration fee is waived if a business applies online through the Department's online registration process.

**Ninth-cent and Local Option Dates (Sections 336.021 and 336.025, F.S.)**

Chapter 336, F.S., provides clear direction on the administration of rate changes for ninth-cent and local option fuel taxes imposed after July 1, 2002. For taxes imposed prior to July 2002, the statutes do not clearly identify adoption dates for ordinances or the length of time the adopted ordinance will remain in effect.

**Dry Cleaning Tax Registration Fee (Section 376.70, F.S.)**

Dry cleaning facilities are required to register with the Department and pay a \$30 fee. If a facility registers electronically, the Department waives the \$30 fee as authorized by statute. The majority of these registrations are electronic and no fee is charged.

**Perchloroethylene Registration Fee (Section 376.75, F.S.)**

Any person producing, importing or selling perchloroethylene (perc) is required to register with the Department and pay a \$30 fee. Additionally, the person must also register for a pollutants license that requires a \$30 license tax. The Department has allowed perc registrants to designate their perc registration on the pollutants registration and has not required a separate application and fee for perc.

**Extension of Annual and Installment Due Dates (Sections 443.131 and 443.141, F.S.)**

Due dates for reemployment tax installment payments and annual filings are provided for by statute and do not allow for additional time when the due dates fall on a Saturday, Sunday, or holiday. Quarterly filing due dates are provided for by rule and have provisions allowing later due dates when the date falls on a weekend or holiday.

**Reemployment Tax Penalty Waiver (Section 443.163, F.S.)**

Florida law requires certain employers to file their Employers Quarterly Report electronically. When employers fail to file electronically as required, current law imposes a penalty. There is no provision for a waiver of penalty should the penalty imposition be found to be inequitable.

### **III. Effect of Proposed Changes:**

The bill contains recommendations made by the Department of Revenue (Department) and approved by the Cabinet which are designed to reduce the burden on taxpayers. The bill does so by eliminating fees that generate negligible amounts, repealing an obsolete provision requiring the court to report information on probate cases, and affording taxpayers and tax collection service providers greater flexibility in waiving penalties, and extending due dates **for filings and tax payments.**

In particular, various fees are eliminated after a finding by the Department that the amounts generated by the collection of these fees is negligible.

#### **Sections 1, 22, 23. Elimination of Reporting Requirements (Sections 198.30 and 733.2121, F.S.)**

Present Situation: Section 198.30, F.S., requires circuit court judges to report the names of decedents and other information on estates in probate to both the Department and the Agency for Health Care Administration (AHCA). In addition, personal representatives are required to provide certain information to the Department and AHCA pursuant to s. 733.2121(3), F.S. Due to estate and intangible tax law changes, the Department no longer needs the information circuit court judges provide and, in most circumstances, does not need the information supplied by personal representatives.

Proposed Change: This proposal amends s. 198.30, F.S., to eliminate the requirement to provide information to the Department. Therefore, this information will be provided only to AHCA. Additionally, s. 733.2121, F.S., is amended to require a notice of creditors to be served on the Department only when the Department is a creditor of the estate.

#### **Sections 2, 3, 4, 5, 6, 7, 9, 10, 11, and 24. Fuel and Pollutants License Fee Elimination (Sections 206.02, 206.021, 206.022, 206.405, 206.406, 206.9943 and 206.9952, 206.998, F.S.)**

Present Situation: Florida law imposes a \$30 license tax on persons applying for an annual fuel or pollutants license and a \$5 annual fee to obtain a license as a natural gas fuel retailer. The Department issues the taxpayer a receipt, which must be posted on display in public view. All money derived from the license taxes pursuant to ss. 206.02, 206.021, 206.022, and 206.404, F.S., must be paid into the state Treasury to the credit of the General Revenue Fund.

Proposed Change: This proposal eliminates the \$30 annual license tax required for a fuel or pollutants license as well as the \$5 annual fee to obtain a natural gas fuel license. Additionally, s. 206.405, F.S., the receipt for payment of the license tax, and s. 206.406, F.S., the disposition of license tax funds, are repealed. The bill amends s. 206.998, F.S., to conform to the repealed sections.

#### **Section 8. Fuel Tax Refund Fee Elimination (Section 206.41, F.S.)**

Present Situation: Florida law allows certain taxpayers to obtain quarterly refunds of a portion of the tax paid on fuel purchases. These qualified taxpayers must purchase the fuel for use in

agriculture, commercial fishing, school buses, mass public transportation, or another authorized purpose. The Department is required to deduct a \$2 fee from each of these quarterly tax refunds.

Proposed Change: This proposal eliminates the \$2 processing fee deducted from the quarterly fuel tax refunds made to these qualified taxpayers.

### **Section 12. Elimination of Vending Machine Notice Requirement (Section 212.0515, F.S.)**

Present Situation: Sales tax is due on the sale of food, beverages, and most items purchased through vending machines in Florida. Vending machine owners also must display a notice on each vending machine which provides that machines without a posted notice may be reported using a toll-free number and that a person who reports noncompliance may be eligible for a reward. Florida law imposes a \$250 penalty for each vending machine that does not display the notice.

Proposed Change: This proposal eliminates the required notice.

### **Sections 13 and 14. Sales and Use Tax Registration Fee Elimination (Sections 212.0596 and 212.18, F.S.)**

Present Situation: Florida law imposes a \$5 fee on each business location that registers with the Department to collect, report, and remit sales and use tax. However, the \$5 registration fee is waived if a business applies online through the Department's online registration process.

Proposed Change: This proposal eliminates the \$5 application fee charged for all businesses registering to collect, report, and remit sales and use tax.

### **Sections 15 and 16. Ninth-cent and Local Option Dates (Sections 336.021 and 336.025, F.S.)**

Present Situation: Chapter 336, F.S., provides clear direction on the administration of rate changes for ninth-cent and local option fuel taxes imposed after July 1, 2002. For taxes imposed prior to July 2002, however, the statutes do not clearly identify adoption dates for ordinances or the length of time the adopted ordinance will remain in effect.

Proposed Change: This proposal provides specific guidelines for the notification, adoption, and expiration of local ordinances imposed prior to July 2002. For those tax levies, any re-imposition would be required to be levied before July 1 to allow the Department time to make any necessary changes to distribution programs.

### **Section 17. Dry Cleaning Tax Registration Fee Elimination (Section 376.70, F.S.)**

Present Situation: Dry cleaning facilities are required to register with the Department and pay a \$30 fee. If a facility registers electronically, the Department waives the \$30 fee as authorized by statute. The majority of these registrations are electronic and no fee is charged.

Proposed Change: This proposal eliminates the \$30 registration fee for all registrations.

**Section 18. Perchloroethylene Registration Fee Elimination (Section 376.75, F.S.)**

Present Situation: Any person producing, importing or selling perchloroethylene (perc) is required to register with the Department and pay a \$30 fee. Additionally, the person must also register for a pollutants license that requires a \$30 license tax. The Department has allowed perc registrants to designate their perc registration on the pollutants registration and has not required a separate application and fee for perc.

Present Change: This proposal repeals the \$30 perc registration fee.

**Section 19 and 20. Extension of Annual and Installment Due Dates (Sections 443.131 and 443.141, F.S.)**

Present Situation: Due dates for reemployment tax installment payments and annual filings are provided for by statute and do not allow for additional time when the due dates fall on a Saturday, Sunday, or holiday. Quarterly filing due dates are provided for by rule and have provisions allowing later due dates when the date falls on a weekend or holiday.

Proposed Change: This proposal adds provisions allowing for later due dates for annual filings and installment payments when the date falls on a Saturday, Sunday, or holiday or any other day when the United States Postal Service is closed.

**Section 21. Reemployment Tax Penalty Waiver (Section 443.163, F.S.)**

Present Situation: Florida law requires certain employers to file their Employers Quarterly Report electronically. When employers fail to file electronically as required, current law imposes a penalty. The tax collection service provider has no flexibility to waive the penalty.

Proposed Change: This proposal allows a tax collection service provider to waive the penalty imposed for a failure to file electronically if the tax collection service provider finds a penalty to be inequitable. Grounds for inequity include the death or serious illness of the person who prepares and files the report, destructions of the business records by fire or another casualty, or unscheduled and unavoidable computer downtime.

**Section 25. Effective Date**

Although the bill takes effect upon becoming a law, certain provisions do not take effect until January 1, 2018. These provisions having the later effective date eliminate fees and the notice requirements on vending machines.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference estimates that this bill will reduce General Revenue Fund receipts by \$0.1 and \$0.2 million recurring revenues in Fiscal Year 2017-2018. Eliminating the fee for sales tax registration and fuel and pollutants licensing will reduce revenue by approximately \$138,000 and \$36,000, respectively. The elimination of the dry cleaning and perchloroethylene registration fee will have an insignificant impact.<sup>3</sup>

**B. Private Sector Impact:**

By eliminating various licensing and registration fees, the bill will reduce costs to businesses to pay the associated fees and the administrative costs of completing the paperwork associated with the fees.

**C. Government Sector Impact:**

The Department of Revenue does not expect an operational impact from the provisions of this bill.<sup>4</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 198.30, 206.02, 206.021, 206.022, 206.03, 206.045, 206.41, 206.9943, 206.9952, 206.998, 206.9865, 212.0515, 212.0596, 212.18, 336.021, 336.025, 376.70, 376.75, 443.131, 443.141, 443.163, and 733.2121.

This bill reenacts section 733.701 of the Florida Statutes.

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<sup>3</sup> Website of the Office of Economic and Demographic Research, *2017 Revenue Estimating Conference, 2017 Conference Table* available at: [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/\\_pdf/page1-10.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/page1-10.pdf) and [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/\\_pdf/page39-45.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/page39-45.pdf).

<sup>4</sup> Department of Revenue, *2017 Agency Legislative Bill Analysis* (March 7, 2017) (on file with the Senate Judiciary Committee).

This bill repeals the following sections of the Florida Statutes: 206.405 and 206.406.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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