

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/CS/SB 1792

INTRODUCER: Infrastructure and Security Committee, Community Affairs Committee, and Senator Gruters

SUBJECT: Towing of Vehicles and Vessels

DATE: April 3, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Yeatman	CA	Fav/CS
2.	Price	Miller	IS	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1792 addresses the towing, removal, storage, and immobilization of vehicles and vessels. Generally, the bill:

- Provides definitions.
- Authorizes a county or municipality to regulate the rates for the towing, immobilization, and storage and removal of vessels parked on private property or involved in an accident scene.
- Requiring a county that regulates the above rates to establish maximum rates, which do not apply within the jurisdiction of a municipality that establishes maximum rates.
- Prohibits counties and municipalities, respectively, from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators or towing businesses for towing, impounding, or storing a vehicle or vessel immobilization services.
- Prohibits counties or municipalities from imposing charges, costs, expenses, fines, fees, or penalties on authorized wrecker operators, registered owners, other legally authorized persons in custody or in control, or lienholders of vehicles or vessels.
- Provides the above prohibitions do not prevent county or municipal levy of a reasonable business tax or imposition of a limited reasonable administrative fee or charge.
- Provides exemptions to bill requirements for certain ordinances enacted by a charter county with a population exceeding 1.3 million on or before January 1, 2019.
- Requires a reasonable administrative fee or charge imposed by a county or municipality to be included as part of the lien on the vehicle or vessel held by the towing operator.

- Includes vessels in the current prohibition against charging a vehicle storage fee when stored for less than six hours.
- Revises various related notice provisions.
- Revises requirements relating to towing and removing vehicles or vessels to include persons who are in custody, or in control or custody, of a vehicle or of a vessel.
- Removes provisions related to liability for improper removal of a vehicle or vessel.
- Prohibits county or municipal ordinances requiring a towing business to accept checks as a form of payment.
- Prohibits county or municipal authorization of attorney fees or court costs in connection with the towing of vehicles or vessels from private property and preempts regulation of such fees or court costs to the state.

The fiscal impact on local government and on the private sector is indeterminate. See the Fiscal Impact Statement heading for details.

The bill's provisions in general may limit the ability of municipalities and counties to raise revenue, thus requiring approval of the bill by each house of the Legislature by two-thirds vote of its membership. However, whether such approval is required is indeterminate. See the Municipality/County Mandates Restrictions heading for details.

The bill takes effect July 1, 2019.

II. Present Situation:

County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.¹ After the establishment of such contract(s), the county or municipality must create a "wrecker operator system" to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods.² Any wrecker operator that is included in the wrecker operator system is an "authorized wrecker operator" in the jurisdiction, while any wrecker operation not included is an "unauthorized wrecker operator."³

Unauthorized wrecker operators are not permitted to initiate contact with the owner or operator of a wrecked or disabled vehicle.⁴ If the owner or operator initiates contact, the unauthorized

¹ Section 323.002(1)(c), F.S. The definition of "vehicle" does not include a vessel or trailer intended for the transport on land of a vessel. *See* s. 320.01(20), F.S. (defining "motor vehicle" for the purpose of issuance of motor vehicle licenses and separately defining a "marine boat trailer dealer" as a person engaged in "business of buying ... trailers specifically designed to be drawn by another vehicle and used for the transportation on land of vessels.")

² Section 323.002(1)(c), F.S.

³ Section 323.002(1)(a)-(b), F.S.

⁴ Section 323.002(2)(b), F.S.

wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- His or her full name;
- Driver license number;
- That he or she is not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner's or operator's insurance company or lienholder;
- Whether he or she has an insurance policy providing at least \$300,000 in liability coverage and \$50,000 in on-hook cargo coverage; and
- The maximum charges for towing and storage.⁵

The unauthorized wrecker operator must disclose this information to the owner or operator in the presence of a law enforcement officer if an officer is present at the scene of the accident.⁶ It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated.⁷ An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.⁸ In either instance, the unauthorized wrecker operator's wrecker, tow truck, or other motor vehicle used during the offense may be immediately removed and impounded.⁹ Unauthorized wrecker operators also are prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.¹⁰

If a county chooses to regulate the activity, counties must establish maximum rates for the towing of vehicles removed from private property, as well as the towing and storage of vehicles removed from the scene of an accident or where the vehicle is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.¹¹ A county or municipality may not establish rates, including a maximum rate, for the towing of vessels.¹²

Vehicle Holds, Wrecker Operator Storage Facilities, and Liens

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to five business days.¹³ A hold may be applied where the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act¹⁴ or ch. 379, F.S.;¹⁵

⁵ Section 323.002(2)(c), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ Section 323.002(2)(d), F.S.

⁹ Section 323.002(2)(c) and (d), F.S.

¹⁰ Section 323.002(2)(a), F.S.

¹¹ Sections 125.0103(1)(c) and 166.043(1)(c), F.S.

¹² *Compare* 125.0103(1)(c), F.S., (requiring a county to establish maximum rates for towing of vehicles) *with* s. 715.07, F.S. (towing of vehicles or vessels parked on private property).

¹³ Section 323.001(1), F.S.

¹⁴ Sections 932.701-932.7062, F.S.

¹⁵ Chapter 379, F.S., includes multiple instances when a vehicle or vessel may be forfeited due to unlawful acts committed with such vehicle or vessel concerning fish and wildlife conservation.

- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.¹⁶

An officer may also apply a hold when the vehicle is impounded pursuant to ss. 316.193 (driving under the influence) or 322.34 (driving while license suspended, revoked, canceled, or disqualified), F.S., and when the officer is complying with a court order.¹⁷ The hold must be in writing and include the name and agency of the law enforcement officer placing the hold, the date and time the hold is placed on the vehicle, a general description of the vehicle (including its color, make, model, body style, and year; VIN (Vehicle Identification Number); registration license plate number, state, year; and validation sticker number, state and year), the specific reason for placing the hold, the condition of the vehicle, the location where the vehicle is being held, and the name, address, and telephone number of the wrecker operator and storage facility.¹⁸

The investigating agency must inform the wrecker operator in writing within the five day holding period if the agency intends to hold the vehicle for a longer period of time.¹⁹ The vehicle owner is liable for towing and storage charges for the first five days. If the vehicle will be held beyond five days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.²⁰

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel possesses a lien on the vehicle or vessel for a reasonable towing fee and storage fee, if the vehicle or vessel is removed upon instructions from:

- The owner of the vehicle or vessel;
- The owner, lessor, or authorized person acting on behalf of the owner or lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed in compliance with s. 715.07, F.S.);
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy (and the removal is performed pursuant to ss. 83.806 or 715.104, F.S.); or
- Any law enforcement agency.²¹

Authority for Local Governments to Charge Fees

Counties and municipalities do not have authority to levy taxes, other than ad valorem taxes, except as provided by general law.²² However, local governments possess the authority to impose user fees or assessments by local ordinance as such authority is within the constitutional and statutory home rule powers of local governments.²³ The key distinction between a tax and a

¹⁶ Section 323.001(4)(a)-(e), F.S.

¹⁷ Section 323.001(4)(f)-(g), F.S.

¹⁸ Section 323.001(5), F.S.

¹⁹ Section 323.001(2), F.S.

²⁰ Section 323.001(2)(a)-(b), F.S.

²¹ Section 713.78(2), F.S.

²² FLA. CONST., art. VII, s. 1(a).

²³ *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

fee is that fees are voluntary and benefit particular individuals in a manner not shared by others in the public.²⁴ On the other hand, a tax is a “forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed.”²⁵ Usually a fee is applied for the use of a service and is tied directly to the cost of maintaining the service. Money collected from a fee is not applied to uses other than to provide the service for which the fee is applied. An administrative fee for towing and storage services may be permissible to the extent the fee provides a specific benefit to vehicle owners.²⁶

Fees Related to Towing, Storage, and Wrecker Operators

Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies. The administrative fee is collected by the towing company on behalf of the municipal government and, in addition to towing and storage fees, must be paid before the vehicle is released to the registered owner or lienholder.

The City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.²⁷ The registered owner of the vehicle is then given two options:

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act. The owner may post a bond equal to the civil penalty (\$500), hearing costs (\$50), and towing and storage fees to receive the vehicle back pending the outcome of the hearing, or the owner may leave the vehicle in impound, incurring additional fees; or
- The registered owner may waive the right to a hearing and pay the civil penalty (\$500).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The City of Bradenton uses a similar process and rate structure.²⁸

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an “impoundment administrative fee” on all vehicles seized incident to an arrest. The fee is \$500 if the impoundment stems from a felony arrest and \$250 if the impoundment stems from a misdemeanor.²⁹

The City of Winter Springs imposes an administrative fee for impoundment arising from twelve offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter

²⁴ *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So.2d 756, 758 (Fla. 3rd DCA 2002).

²⁵ *Id.*

²⁶ *See Jasinski v. City of Miami*, 269 F. Supp. 2d 1341, 1348 (S.D. Fla. 2003).

²⁷ Sarasota Police Department, *Vehicle Seizure Program*, available at <https://www.sarasotapd.org/about-us/vehicle-seizure-program> (last visited March 22, 2019).

²⁸ Bradenton, Fla. Code of Ordinances, ch. 54, art. IV, available at https://library.municode.com/fl/bradenton/codes/code_of_ordinances?nodeId=PTIICOOR_CH54OFMIPR_ARTIVIMMOVE_USFAPDRRECR (last visited March 22, 2019).

²⁹ Sweetwater, Fla. Code of Ordinances, ch. 42-1, s. 42.1(c), available at https://library.municode.com/fl/sweetwater/codes/code_of_ordinances?nodeId=PTIICOOR_CH42MOVETR_ARTIINGE_S_42-1IMMOVE (last visited March 22, 2019).

weighing more than 15 pounds.³⁰ The registered owner may request a hearing, either accruing additional storage fees pending the hearing or posting a bond equal to the amount of the administrative fee (\$550). If the registered owner waives the right to hearing, the administrative fee is reduced to \$250.

By contract, some municipalities require wrecker services to pay a monthly fee for serving as authorized wrecker operators. For example, the contract between the City of Sarasota and a wrecker operator requires the operator to pay the city \$10,151 per month for “the opportunity to provide” wrecker services, as well as \$500 for each impounded vehicle sold by the wrecker service.³¹

Additionally, a county or municipality may require a fee from a towing business in order to be licensed to operate within that county or municipality. For example, to operate a towing business in Miami-Dade County a person or corporation must apply to be a registered towing business with the county, which includes a \$412 annual fee, a vehicle safety inspection with a \$94 decal fee, proof of insurance requirements, and background checks (\$24 fee) of the owners of the towing business.³²

III. Effect of Proposed Changes:

Sections 1 and 3 amend ss. 125.0103 and 166.043, F.S., both relating to local government ordinances and rules imposing price controls on certain lawful business activity, to apply to vessels the provisions of those sections currently applicable to vehicles towed from (and then stored elsewhere) or immobilized on private property, or towed from an accident scene. Thus, with respect to activities on private property or at accident scenes, the bill authorizes a county or municipality to regulate the rates for the towing, immobilization, removal and storage of vessels. For purposes of these provisions, the term “vessel” is defined in each section of the bill to mean only vessels that are located on land.

If a county regulates the rate, the county would be required to establish a maximum rate that may be charged for such activities. However, if a municipality within a county chooses to establish a maximum rate, the county’s ordinance would not apply within that municipality.

Sections 2 and 4 create ss. 125.01047 and 166.04465, F.S., addressing respectively county and municipal rules and ordinances relating to towing services. The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on an authorized wrecker operator or on a towing business for towing, impounding, or storing a vehicle or vessel. The bill defines the term “towing business” to mean a business that provides towing services for monetary gain.

³⁰ Winter Springs, Fla. Code of Ordinances, ch. 12, art. V., s. 12-100, available at https://library.municode.com/fl/winter_springs/codes/code_of_ordinances?nodeId=PTIICOOR_CH12MOVETR_ARTVIM_MOVE_S12-100IMMOVEUSFACEMICRPATRRE (last visited March 22, 2019).

³¹ City of Sarasota, *Agreement for Wrecker Towing and Storage Services* (May 5, 2010) (on file with the Senate Community Affairs Committee).

³² Miami-Dade County, *Towing License*, available at <http://www.miamidade.gov/licenses/towing.asp> (last visited March 22, 2019).

The prohibition does not affect the county or municipality's ability to levy a business tax under ss. 205.0315, 205.033, or 205.0535, F.S., or to impose and collect from the registered owner or other legally authorized person in control of the vehicle or vessel, or the lienholder, a reasonable administrative fee or charge to cover the cost of enforcement, including parking enforcement, by the county or municipality when the vehicle or vessel is towed from public property. The reasonable administrative fee may not exceed 25 percent of the maximum towing rate.

The bill authorizes an authorized wrecker operator or towing business to impose and collect the administrative fee or charge on behalf of the county or municipality, but requires the operator or business to remit such fee or charge to the county or municipality only after it is collected.

On the bill's effective date, rules or ordinances enacted by counties (with certain exceptions discussed below) and municipalities that impose a fee or charge on an authorized wrecker operator or a towing business for towing, impounding, or storing a vehicle or vessel would be preempted by the bill's prohibition against such rules or ordinances. Counties and municipalities that have not enacted an ordinance imposing such fees or charges would be prohibited from doing so.

With respect to the referenced exception, the bill provides that s. 125.0147, F.S., does not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019, by a charter county with a population exceeding 1.3 million according to the most recent decennial census which relates to the towing, impounding, removal, or storage of vehicles or vessels, including any amendment or revision made to such ordinance, resolution, or regulation after July 1, 2019. However, any changes to the ordinance, resolution, or regulation may not include new fees or charges to the towing operator or owner of the vehicle or vessel. According to the U.S. Census Bureau, based on the 2010 census, the specified charter counties include Broward, Miami-Dade, and Palm Beach.³³

An ordinance enacted by such charter county on or before January 1, 2019, would not be affected by the bill's revisions to s. 125.0147, F.S. The ordinance could continue in force indefinitely, provided no new fees or charges are included in any change to the ordinance. Should the ordinance become ineffective for any reason, such charter county would be prohibited from imposing a fee or charge on an authorized wrecker operator or a towing business for towing, impounding, or storing a vehicle or vessel. The county would then be limited to imposing and collecting the authorized reasonable business tax and administrative fee or charge, capped at 25 percent of the maximum towing or immobilization rate set by the county.

Section 5 amends s. 332.002, F.S., relating to county and municipal wrecker operator systems and penalties for operation outside of a system, by creating a new subsection (4) of that section. The bill, with one exception, prohibits a county or municipality from adopting or maintaining an ordinance or rule that impose a charge, cost, expense, fine, fee, or penalty, on an authorized wrecker operator, registered owner or other legally authorized person in control of a vehicle or

³³ Office of Economic & Demographic Research, *Census Population Counts by County and City in Florida, April 1, 2000 and 2010*, available at http://edr.state.fl.us/Content/population-demographics/data/Pop_2010Census.pdf (last viewed April 1, 2019).

vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator under ch. 323, F.S.

A county or municipality may adopt or maintain an ordinance or rule that imposes a reasonable administrative fee or charge on the registered owner or other legally authorized person in control of a vehicle or vessel, or the lienholder of a vehicle or vessel, when the vehicle or vessel is towed by an authorized wrecker operator, not to exceed 25 percent of the maximum towing rate, to cover the cost of enforcement, including parking enforcement, by the county or municipality when the vehicle or vessel is towed from public property. The authorized wrecker operator or towing business is authorized to collect the administrative fee or charge on behalf of the county or municipality and must remit such fee or charge to the county or municipality only after it is collected.

Counties and municipalities may not enact an ordinance or rule requiring an authorized wrecker operator to accept checks as a form of payment.

The bill provides these provisions do not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019, by a charter county with a population exceeding 1.3 million according to the most recent decennial census which relates to the towing, impounding, removal, or storage of vehicles or vessels

The described ordinance, if enacted by such charter county on or before January 1, 2019, would not be affected by these revisions. The ordinance could continue in force indefinitely, provided no new fees or charges are included in any change to the ordinance. Should the ordinance become ineffective for any reason, such charter county would be prohibited from enacting a new ordinance. The county would then be limited to imposing and collecting from the registered owner or other legally authorized person in control of the vehicle or vessel the authorized reasonable administrative fee or charge, capped at 25 percent of the maximum towing rate set by the county.

Section 6 amends s. 713.78, F.S., relating to liens for recovering, towing, or storing vehicles and vessels. The bill provides that a reasonable administrative fee or charge imposed by a county or municipality must be included as part of the lien on the vehicle or vessel held by the towing operator. The bill includes vessels in the current prohibition against charging a reasonable vehicle storage fee when stored for less than six hours.

Section 7 amends s. 715.07, F.S., relating to removal of vehicles or vessels parked on private property. The bill inserts references to persons in *custody* or *in custody or control* of a vehicle or vessel, in current provisions³⁴ of law to:

- Require the entity that tows or removes a vehicle or vessel, and proposes to make a person in control *or custody* of a vehicle or vessel to pay the costs of towing and storage prior to redemption of the vehicle or vessel, to keep on file and on record with local law enforcement a copy of the current rates to be charged by the entity.

³⁴ The current provisions apply the requirements to an entity as they relate, respectively, to an owner, operator, or person in control; to the owner or other legally authorized person in control; or to an owner, custodian, or agent.

- Require the entity that tows or removes a vehicle or vessel from private property without the consent of the person in control *or custody* to have specified identifying company information clearly printed on the entity's vehicle.
- Require the entity that tows or removes a vehicle or vessel to release the vehicle within one hour to the *person in custody or control*, who has the right to inspect the vehicle or vessel and who may not be required to sign a specified release or waiver of liability for damages noted by that person at the time of redemption.

With respect to required notices, the bill removes a distance requirement within which a notice must be placed at a driveway access or curb cut allowing vehicular access to the property, and a height requirement for the sign structure.

This section of the bill also prohibits a county or municipality from enacting an ordinance requiring a towing business to accept checks as a form of payment and removes the current language regarding liability for damages, attorney's fees, and court costs resulting from the improper removal, transportation, or storage of a vehicle or vessel.

The bill retains current law deeming the section's requirements to be minimum standards and providing the standards do not preclude enactment of additional, local regulations, including the right to regulate rates when vehicles or vessels are towed from private property.

Additionally, the bill prohibits a municipality or county from authorizing attorney fees or court costs in connection with the towing of vehicles or vessels from private property and expressly preempts to the state regulation of attorney fees and court costs in connection with the towing of vehicles or vessels from private property. To the extent that municipalities or counties engage in such authorization, the practice would be prohibited on the effective date of the bill. Going forward, counties and municipalities would be prohibited from such authorizations.

Section 9 provides the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenue.

Subsection (b) of Article VII, s. 18 of the Florida Constitution provides that, except upon approval by each house of the Legislature by two-thirds vote of its membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate. However, these requirements do not apply to laws that have an

insignificant fiscal impact on local governments, which for Fiscal Year 2018-2019 is forecast at slightly over \$2 million.^{35, 36, 37}

The bill prohibits local governments from imposing amounts that may be currently imposed and may not be imposed in the future. The extent to which the bill's prohibitions against local government imposition of the specified fees and charges would be offset by the authorized business taxes and limited administrative fees is indeterminate. Thus, whether the bill would reduce the authority of municipalities or counties to raise in the aggregate revenue exceeding the "insignificant impact" ceiling is unknown. Approval of the bill by each house of the Legislature by two-thirds vote of its membership may be required.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill contains provisions that may both increase and decrease revenues and expenses for the private sector, as the bill prohibits county and municipal imposition of the identified fees and charges on authorized wrecker operators or towing businesses, replaced by business taxes that businesses are likely already paying and limited administrative fees that such operators and businesses must remit to the county or

³⁵ FLA. CONST. art. VII, s. 18(d).

³⁶ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf>

³⁷ Based on the Florida Demographic Estimating Conference's November 5, 2018 population forecast for 2019 of 21,170,399. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last viewed April 1, 2019).

municipality (when a vehicle or vessel is towed from public property). These revisions would presumably decrease expenses for such operators and businesses, thereby increasing revenue, in indeterminate amounts. The increase would be offset by costs associated with collecting and remitting the limited administrative fees, but only if an operator or business chooses to do so.

As to the owner or other legally authorized person in control of a vehicle or vessel, or the lienholder, counties and municipalities are limited to imposing the reasonable administrative fee, not to exceed 25 percent of the maximum towing rate. This revision would presumably reduce expenses to owners or authorized persons whose vehicles or vessels are towed from public property, in indeterminate amounts.

Because the number of vehicles or vessels that will be towed is unknown, the fiscal impact of the bill on affected private sector businesses and individuals is indeterminate.

C. Government Sector Impact:

The bill contains provisions that may both increase and decrease revenues and expenses for local governments as the bill prohibits county and municipal imposition of the identified fees and charges on authorized wrecker operators or towing businesses, replaced by business taxes that businesses are likely already paying and limited administrative fees when a vehicle or vessel is towed from public property. This revision would presumably reduce revenue to local governments in indeterminate amounts. The authorized reasonable administrative fee assessed against owners or authorized persons, limited to 25 percent of the maximum towing rate, presumably would not offset the reduction in local government revenue due to the prohibition.

Because the number of vehicles or vessels that will be towed is unknown, the fiscal impact of the bill on local governments is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 125.0103, 166.043, 323.002, 713.78, and 715.07 of the Florida Statutes.

This bill creates sections 125.01047, 166.04465, and 715.08 of the Florida Statutes.

IX. Additional Information:

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

CS by Infrastructure and Security on April 2, 2019:

The CS/CS:

- Removes from the bill establishment of a regulatory structure for vehicle immobilization service operators and makes conforming changes throughout the bill.
- With respect to the excepted charter counties, adds that any amendment or revision to an ordinance enacted before July 1, 2019, may not include new fees or changes to the towing operator or owner of the vehicle or vessel.
- Prohibits local ordinances requiring an authorized wrecker operator to accept checks as a form of payment and restores some of the type-size requirements in the signage provisions.
- Prohibits a city or county from authorizing attorney fees or court costs in connection with the towing of vehicles or vessels from private property.
- Preempts to the state regulation of attorney fees and court costs in connection with towing vehicles or vessels from private property and deems void any local ordinance on the subject.
- Makes additional conforming and technical clarifying changes throughout the bill.

CS by Community Affairs on March 26, 2019:

The committee substitute provides that certain provisions in the bill do not affect an ordinance, resolution, or regulation enacted on or before January 1, 2019 by a charter county with a population exceeding 1.3 million.

- B. **Amendments:**

None.