

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/HB 7097 PCB WMC 20-01 Taxation

**SPONSOR(S):** Appropriations Committee and Ways & Means Committee, Avila and others

**TIED BILLS:** N/A **IDEN./SIM. BILLS:** N/A

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**FINAL HOUSE FLOOR ACTION:** 104 Y's 8 N's **GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

CS/HB 7097 passed the House on March 6, 2020. The bill was amended in the Senate on March 11, 2020, March 12, 2020 and March 13, 2020. The House concurred in the Senate amendments and subsequently passed the bill as amended on March 13, 2020.

The bill provides for tax reductions and tax-related modifications that will impact both families and businesses.

Several provisions related to sales tax are included:

- A three-day "back-to-school" tax holiday in early August 2020 and a seven-day "disaster preparedness" tax holiday in May and June of 2020;
- A requirement that School Capital Outlay sales surtaxes approved in the future be proportionately shared with charter schools;
- A requirement that any future levy of the Charter County and Regional Transportation System Sales Surtax in any eligible county be limited to 30 years in duration.

For corporate income tax, the bill amends the calculation of a taxpayer's "final tax liability" for purposes of calculating certain corporate income tax refunds.

The bill increases the population limit, under which a county is authorized to use its tourist development tax revenues for zoological parks, fishing piers, and nature centers, from 750,000 to 950,000.

Regarding property taxes, the bill amends the requirements for hospitals to qualify for a charitable tax exemption. Non-profit hospitals will be required to document the value of charitable services they provide, and their current charity tax exemption will be limited to the value of that charity care. The bill updates the qualifying operations for the deployed servicemember tax exemption; amends statutory provisions that address conflict of interest for special magistrates; and restricts information that may be mailed with the yearly TRIM notice. The bill also exempts from property tax vacant affordable housing units and units occupied by persons or families that met the qualifying income thresholds at the time they began their tenancy, but whose income grew through the income thresholds. The bill also exempts from property tax an affordable housing project owned by a limited liability company, which is also owned by a limited liability company, as long as the owner of the second limited liability company is a qualifying 501(c)(3) entity.

The bill lowers the tax rate on surplus lines insurance and provides that the new lower rate applies to all policies irrespective of where the insured risk is located.

The bill exempts new school construction projects funded solely through local impact fees from the total cost per student station limitation. It also prohibits an owner of a public building from soliciting any payment for providing the allocation letter needed to receive a federal income tax deduction for energy efficient construction.

The bill also includes provisions proposed by the Department of Revenue to enhance the administration of state taxes and oversight of property taxation.

The total state and local government revenue impact of the bill in Fiscal Year 2020-21 is estimated to be -\$47.4 million (all nonrecurring), including an impact of -\$36.9 million to the General Revenue Fund.

The bill also provides nonrecurring appropriations totaling \$311,000 from the General Revenue Fund to implement the act. See Fiscal Comments section on page 44 for details.

The bill was approved by the Governor on April 9, 2020, ch. 2020-10, L.O.F., and becomes effective on July 1, 2020, except as otherwise provided.

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

**STORAGE NAME:** h7097z.DOCX

**DATE:** 3/11/2020

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Sales Tax**

Florida's sales and use tax is a six percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals,<sup>1</sup> unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's general revenue stream (79.0 percent for Fiscal Year 2019-20)<sup>2</sup> and is administered by the Department of Revenue (DOR) under ch. 212, F.S.

Authorized in 1982, the Local Government Half-cent Sales Tax Program generates the largest amount of revenue for local governments among the state-shared revenue sources currently authorized by the Legislature.<sup>3</sup> It distributes a portion of state sales tax revenue via three separate distributions to eligible county or municipal governments. Additionally, the program distributes a portion of communications services tax revenue to eligible local governments. Allocation formulas serve as the basis for these separate distributions. The program's primary purpose is to provide relief from ad valorem and utility taxes in addition to providing counties and municipalities with revenues for local programs.<sup>4</sup>

#### **Sales Tax Holidays**

##### **Current Situation**

Since 1998, the Legislature has enacted 26 temporary periods (commonly called "sales tax holidays") during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

*"Back-to-School" Holidays*--Florida has enacted a "back to school" sales tax holiday eighteen times since 1998. The length of the exemption periods has varied from three to 10 days. The type and value of exempt items has also varied. Clothing and footwear have always been exempted at various thresholds, most recently \$60. Books valued at \$50 or less were exempted in six periods. School supplies have been included starting in 2001, with the value threshold increasing from \$10 to \$15. Personal computers and related accessories purchased for noncommercial home or personal use have been included several times with varying sales price thresholds. In 2013 and 2017 such computers and accessories with a sales price of \$750 or less were exempted. In 2019, the exemption was for such items with a sales price of \$1,000 or less. In 2014 and 2015, the first \$750 of the sales price was exempted.

For the 2019-20 school year, none of the Florida school districts held their opening day for students during the first full week of August (Aug. 5-9, 2019). 66 districts (98 percent) had opening days during the second week of August (Aug. 12-16, 2019). The remaining county had its opening day on August 19, 2019. Of the 40 counties that have posted their 2020-2021 school calendar as of a scheduled first day during the second week of August (August 10-14, 2020) and one is scheduled to start on August 17, 2020.

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<sup>1</sup> The Legislature reduced the sales tax rate on commercial rentals to 5.5% effective Jan. 1, 2020. See s. 33, ch. 2019-42, L.O.F.

<sup>2</sup> Florida Revenue Estimating Conference (REC), 2020 Florida Tax Handbook, p. 16 available at:

<http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf>.

<sup>3</sup> Chapter 82-154, Laws of Fla.

<sup>4</sup> 2019 Local Government Financial Information Handbook, p. 79 available at: <http://edr.state.fl.us/Content/local-government/reports/lgfi19.pdf>.

*Hurricanes and Disasters in Florida*--The Florida Office of Insurance Regulation estimated insured losses of over \$7.4 billion due to Hurricane Michael in 2018,<sup>5</sup> \$11 billion due to Hurricane Irma in 2017,<sup>6</sup> \$1.3 billion due to hurricanes Hermine and Mathew in 2016,<sup>7</sup> \$25 billion due to four hurricanes in 2004, and \$10.8 billion due to four hurricanes in 2005.<sup>8</sup> Tropical Storm Fay was estimated to have resulted in \$242 million of damage in 2008.<sup>9</sup> The Florida Division of Emergency Management recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit.<sup>10</sup>

### Proposed Changes

The bill establishes a temporary back-to-school sales tax holiday and a temporary disaster preparedness sales tax holiday.

*“Back-to-School Holiday”*--A three-day sales tax holiday is authorized from August 7, 2020, through August 9, 2020. During the holiday, the following items that cost \$60 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).

The bill also exempts various “school supplies” that cost \$15 or less per item during the holiday.

Additionally exempted is the first \$1,000 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use. This includes tablets, laptops, monitors, input devices, and non-recreational software. Cell phones and furniture, and devices or software intended primarily for recreational use, are not exempted.

*Disaster Preparedness Sales Tax Holiday*--The bill provides for a seven-day sales tax holiday from May 29, 2020, through June 4, 2020, for specified items related to disaster preparedness. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- A portable self-powered light source selling for \$20 or less;
- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- A ground anchor system or tie-down kit selling for \$50 or less;
- A gas or diesel fuel tank selling for \$25 or less;
- A package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- A nonelectric food storage cooler selling for \$30 or less;

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<sup>5</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://floir.com/Office/HurricaneSeason/HurricaneMichaelClaimsData.aspx> (last visited Feb. 1, 2020).

<sup>6</sup> Florida Office of Insurance Regulation, Catastrophe Report, available at: <https://www.floir.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx> (last visited Feb. 1, 2020).

<sup>7</sup> Florida Office of Insurance Regulation, Catastrophe Reports, available at: <https://floir.com/Office/HurricaneSeason/HurricaneMatthewClaimsData.aspx> and <https://floir.com/Office/HurricaneSeason/HurricaneHermineClaimsData.aspx> (last visited Feb. 1, 2020).

<sup>8</sup> Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: <http://www.floir.com/siteDocuments/HurricaneSummary20042005.pdf> (last visited Feb. 1, 2020).

<sup>9</sup> Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at: <http://www.floir.com/siteDocuments/HurricaneSummary2008.pdf>. (last visited Feb. 1, 2020).

<sup>10</sup> Florida Division of Emergency Management, *Disaster Supply Kit*, <https://www.floridadisaster.org/planprepare/disaster-supply-kit/> (last visited Feb. 1, 2020).

- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less; and
- Reusable ice selling for \$10 or less.

The above sales tax holidays do not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

Additionally, the “back to school” sales tax holiday will apply at the option of the dealer if less than five percent of the dealer’s gross sales of tangible personal property in the prior calendar year are comprised of items that are exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2020, the dealer must notify DOR in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business. The DOR is authorized to adopt emergency rules to implement the provisions of the tax holidays.

## **School Capital Outlay Surtax**

### Current Situation

Subsection 212.055(6), F.S., authorizes school districts to levy discretionary sales surtaxes for school capital outlay. Each county school board may levy a discretionary sales surtax at a rate not to exceed 0.5 percent, pursuant to a resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum.<sup>11</sup>

The resolution must include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax.<sup>12</sup> The resolution must include a plan for the use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses that have a useful life expectancy of five or more years, and any land acquisition, land improvement, design, and related engineering costs. The plan must also include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance authorized projects, and any interest accrued may be held in trust to finance the projects.<sup>13</sup>

Twenty-four counties currently levy a school capital outlay surtax.<sup>14</sup> DOR collects the surtax revenues and is required by law to distribute them to the district school board imposing the tax.<sup>15</sup> There is currently no provision in law requiring school districts to share the capital outlay surtax funds with charter schools.

### Proposed Changes

The bill establishes an additional requirement for the resolution that voters must approve in order to levy a school capital outlay surtax. Specifically, such resolution must include a statement that the revenues collected shall be shared with charter schools based on their proportionate share of the total school district enrollment.

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<sup>11</sup> Section 212.055, F.S.

<sup>12</sup> Section 212.055(6)(b), F.S.

<sup>13</sup> Section 212.055(6)(c), F.S.

<sup>14</sup> 2019 Local Government Financial Information Handbook, p. 158. See: <http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf>.

<sup>15</sup> Section 212.055(6)(d), F.S.

The bill also requires that charter schools expend the surtax funds in a manner consistent with existing allowable uses for charter school capital outlay funding, as set forth in s. 1013.62(4), F.S., which are for the:

- Purchase of real property.
- Construction of school facilities.
- Purchase, lease-purchase, or lease of permanent or relocatable school facilities.
- Purchase of vehicles to transport students to and from the charter school.
- Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of 5 years or longer.
- Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities.
- Purchase, lease-purchase, or lease of driver's education vehicles; motor vehicles used for the maintenance or operation of plant and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.
- Purchase, lease-purchase, or lease of computer and device hardware and operating system software necessary for gaining access to or enhancing the use of electronic and digital instructional content and resources; and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support schoolwide administration or state-mandated reporting requirements. Enterprise resource software may be acquired by annual license fees, maintenance fees, or lease agreement.
- Payment of the cost of the opening day collection for the library media center of a new school.

Further, all revenues and expenditures shall be accounted for in a charter school's monthly or quarterly financial statement pursuant to s. 1002.33(9), F.S. To participate in distributions of these funds, a charter school must meet the same eligibility requirements as for other capital outlay funding sources. Also, unencumbered funds must revert to the school district in the event that a school's charter is not renewed. Finally, these changes only apply to levies authorized by vote of the electors on or after July 1, 2020.

## **Charter County and Regional Transportation System Surtax**

### Current Situation

Each charter county that has adopted a charter, each county the government of which is consolidated with that of one or more municipalities, and each county that is within or under an interlocal agreement with a regional transportation or transit authority created under chapter 343 or chapter 349, F.S., may levy a discretionary sales surtax of up to one percent, subject to approval by a majority vote of the electorate of the county or by a charter amendment approved by a majority vote of the electorate of the county.<sup>16</sup>

Generally, the surtax proceeds are used for the development, construction, operation, and maintenance of fixed guideway rapid transit systems; bus systems; on-demand transportation services; and roads and bridges.<sup>17</sup> Counties eligible to levy the surtax may also use up to 25 percent of the proceeds for nontransit purposes.<sup>18</sup> Currently four counties are levying the tax.<sup>19</sup>

### Proposed Changes

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<sup>16</sup> Section 212.055(1), F.S.

<sup>17</sup> Section 212.055(1)(d), F.S.

<sup>18</sup> Section 212.055(1)(d)3., F.S.

<sup>19</sup> Broward, Duval, Hillsborough and Miami-Dade counties levy this tax. See 2019 Local Government Financial Information Handbook, p. 158. See: <http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf>.

The bill provides that any new levy of the surtax by any county approved in a referendum on or after July 1, 2020, may not be authorized for a period of more than 30 years.

## **Corporate Income Tax**

Florida levies corporate income tax on corporations of 5.5 percent for income earned in Florida.<sup>20</sup> The calculation of Florida corporate income tax starts with a corporation's federal taxable income.<sup>21</sup> After certain addbacks and subtractions to federal taxable income required by ch. 220, F.S., the amount of adjusted federal income attributable to Florida is determined by the application of an apportionment formula.<sup>22</sup> The Florida corporate income tax uses a three-factor apportionment formula consisting of property, payroll, and sales (which is double-weighted) to measure the portion of a multistate corporation's business activities attributable to Florida.<sup>23</sup> Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first \$50,000 of net income is exempt.<sup>24</sup>

## **Automatic Refunds**

### **Current Situation**

On December 22, 2017, the federal government passed the Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018 (Tax Cuts and Jobs Act).<sup>25</sup> On February 9, 2018, the Bipartisan Budget Act of 2018 was passed, which contained tax extender legislation.<sup>26</sup> The acts made substantial changes to the taxation of individuals and business entities in all industries and contained numerous significant amendments to the Internal Revenue Code (IRC). One of the most significant changes that the Tax Cuts and Jobs Act made was amending IRC section 11(b) to permanently reduce the federal corporate income tax rate from 35 percent to 21 percent for taxable years beginning after December 31, 2017. Additionally, numerous changes were made to the calculation of federal taxable income. On balance, the federal tax base was substantially expanded. The Legislature adopted measures in response to the 2017 and 2018 federal income tax legislation during the 2018 and 2019 legislative sessions.

One such measure, codified in s. 220.1105, F.S., requires any collections in excess of "adjusted forecasted collections" during Fiscal Year 2018-19 to be refunded to eligible corporate taxpayers no later than May 1, 2020, according to a process set forth in statute. "Adjusted forecasted collections" is defined as the amount of net collections of corporate income tax forecasted by the Revenue Estimating Conference for the 2018-19 fiscal year on February 23, 2018, multiplied by 1.07. Taxpayers eligible for refunds are those with taxable years beginning between April 1, 2017, and March 31, 2018, and whose final tax liability for that period is greater than zero. An eligible taxpayer's refund will equal the total excess collections multiplied by that taxpayer's final tax liability as a percentage of the total liabilities of all eligible taxpayers. Current estimates are that \$543 million will be refunded to taxpayers by May 1, 2020, as a result of this provision.

For purposes of calculating the refund each taxpayer may receive, its "final tax liability" is the taxpayer's amount of tax due under this chapter for a taxable year, reported on a return filed with the department. The amount of tax due on a taxpayer's return is the amount owed after all required tax calculations are made, including accounting for applicable credits, including the credit allowed under s. 220.1875, F.S., for certain contributions made to eligible nonprofit scholarship-funding organizations under the Florida

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<sup>20</sup> Section 220.11, F.S.

<sup>21</sup> Section 220.12, F.S.

<sup>22</sup> Section 220.15, F.S.

<sup>23</sup> Section 220.15, F.S.

<sup>24</sup> Section 220.14, F.S.

<sup>25</sup> Public Law No. 115-97, H.R. 1 (Dec. 22, 2017). The act was originally introduced as the Tax Cuts and Jobs Act.

<sup>26</sup> Public Law No. 115-123, H.R. 1892 (Feb. 9, 2018). Tax extenders are temporary tax laws that have a set expiration date, but are typically kept alive through extensions. Because lawmakers generally extend these laws they are collectively referred to as "tax extenders."

Tax Credit Scholarship Program. Businesses that used tax credits pursuant to s. 220.1875, F.S., for taxable years beginning between April 1, 2017, and March 31, 2018, had a lower “final tax liability” than they would have had without making eligible contributions to eligible organizations and therefore are eligible for a smaller proportion of the \$543 million in refunds scheduled to be made by May 1, 2020.

### Proposed Change

The bill, in effect, allows credits taken under s. 220.1875, F.S., to count towards a taxpayer’s “final tax liability” for purposes of calculating refunds available under s. 220.1105, F.S.

## **Surplus Lines Tax**

### Current Situation

Surplus lines insurance refers to a category of insurance for risks for which the admitted market is unable or unwilling to provide coverage.<sup>27</sup> There are three basic categories of surplus lines risks:

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and
- Capacity risks that are risks where an insured needs higher coverage limits than those that are available in the admitted market.

Surplus lines insurers are not “authorized” insurers as defined in the Florida Insurance Code, which means they do not obtain a certificate of authority from OIR to transact insurance in Florida.<sup>28</sup> Rather, surplus lines insurers are “unauthorized” insurers<sup>29</sup> that may transact surplus lines insurance, if they are made eligible by OIR.

The Florida Surplus Lines Service Office (FSLSO) is a self-regulating, nonprofit association of approved unauthorized insurers established by the Legislature in 1997. The FSLSO was created to protect consumers seeking surplus line insurance in the state, monitor marketplace compliance, and protect state revenues.<sup>30</sup> All licensed surplus lines agents are deemed to be members of the FSLSO. The FSLSO operates under the supervision of a nine-member board of governors, which has oversight responsibilities for the Florida surplus lines market.

The premiums charged for surplus lines coverages are subject to a premium receipts tax of 5 percent of all gross premiums charged for such insurance.<sup>31</sup> However, when a multistate policy covers risk outside of Florida and Florida is the home state for purposes of the Nonadmitted and Reinsurance Reform Act of 2010, the tax rate is limited to the tax rate where an insured risk is located.<sup>32</sup>

### Proposed Changes

The bill reduces the statutory tax rate on surplus line insurance premiums from 5 percent to 4.94 percent. For multistate policies, the bill also eliminates the provision in statute that limits such premiums covering risk outside of Florida to the tax rate where the insured risk is located.

## **Property Taxation in Florida**

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<sup>27</sup> The admitted market is comprised of insurance companies licensed to transact insurance in Florida. The administration of surplus lines insurance business is managed by the Florida Surplus Lines Service Office. S. 626.921, F.S.

<sup>28</sup> Section 624.09(1), F.S.

<sup>29</sup> Section 624.09(2), F.S.

<sup>30</sup> See section 626.921, F.S. and FLORIDA SURPLUS LINES SERVICE OFFICE, *About*, <https://www.fslso.com/about> (last visited Jan. 26, 2020).

<sup>31</sup> Section 626.932(1), F.S.

<sup>32</sup> Section 626.932(3), F.S.

Local governments, including counties, school districts, and municipalities have the constitutional authority to levy ad valorem taxes. Special districts may also be given this authority by law.<sup>33</sup> Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.<sup>34</sup> However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit – not variations in rates between taxing units.<sup>35</sup>

Federal, state, and county governments are immune from taxation but municipalities are not subdivisions of the state and may be subject to taxation absent an express exemption.<sup>36</sup> The Florida Constitution grants property tax relief in the form of certain valuation differentials,<sup>37</sup> assessment limitations,<sup>38</sup> and exemptions,<sup>39</sup> including the exemptions relating to municipalities and exemptions for educational, literary, scientific, religious or charitable purposes.

## **Ad Valorem Exemption for Deployed Servicemembers<sup>40</sup>**

### Current Situation

The Florida Constitution grants an exemption for military servicemembers that have Florida homesteads and are deployed on active duty outside the continental United States, Alaska or Hawaii in support of military operations designated by the Legislature.<sup>41</sup> The exemption is equal to the taxable value of the qualifying servicemember's homestead on January 1 of the year in which the exemption is sought, multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year, and divided by the number of days in that year.<sup>42</sup>

### Eligible Military Operations

The Legislature has designated the following military operations as eligible for the exemption:

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<sup>33</sup> Fla. Const. art VII, s. 9.

<sup>34</sup> Fla. Const. art VII, s. 2.

<sup>35</sup> See, for example, *Moore v. Palm Beach County*, 731 So. 2d 754 (Fla. 4th DCA 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (1940).

<sup>36</sup> "Exemption" presupposes the existence of a power to tax, while "immunity" implies the absence of it. See *Turner v. Florida State Fair Authority*, 974 So. 2d 470 (Fla. 2d DCA 2008); *Dept. of Revenue v. Gainesville*, 918 So. 2d 250, 257-59 (Fla. 2005).

<sup>37</sup> Fla. Const. art VII, s. 4, authorizes valuation differentials, which are based on character or use of property.

<sup>38</sup> Fla. Const. art VII, s. 4(c), authorizes the "Save Our Homes" property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. S. 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the "Granny Flats" assessment limitation.

<sup>39</sup> Fla. Const. art VII, s. 3, provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

<sup>40</sup> Section 196.173(7), F.S., defines the term "servicemember" for purposes of this exemption to mean a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard.

<sup>41</sup> Fla. Const. art. VII, s. 3(g). See also s. 196.173, F.S.

<sup>42</sup> Section 196.173(4), F.S.



- Operation Joint Task Force Bravo, which began in 1995;
- Operation Joint Guardian, which began on June 12, 1999;
- Operation Noble Eagle, which began on September 15, 2001;
- Operation Enduring Freedom, which began on October 7, 2001, and ended on December 31, 2014;
- Operations in the Balkans, which began in 2004;
- Operation Nomad Shadow, which began in 2007;
- Operation U.S. Airstrikes Al Qaeda in Somalia, which began in January 2007;
- Operation Copper Dune, which began in 2009;
- Operation Georgia Deployment Program, which began in August 2009;
- Operation Spartan Shield, which began in June 2011;
- Operation Observant Compass, which began in October 2011;
- Operation Inherent Resolve, which began on August 8, 2014;
- Operation Atlantic Resolve, which began in April 2014;
- Operation Freedom's Sentinel, which began on January 1, 2015;
- Operation Resolute Support, which began in January 2015.

### *Annual Report of All Known and Unclassified Military Operations*

By January 15 of each year, the Department of Military Affairs (DMA) must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year.<sup>43</sup>

### Proposed Changes

The bill updates the statutory list of military operations eligible for the exemption by adding Operation Juniper Shield, which began February 2007, Operation Pacific Eagle, which began September 2017, and Operation Martillo, which began January 2012. The bill also removes Operation Enduring Freedom which ended on December 31, 2014.

### **Ad Valorem Exemption for Hospitals**

#### Current Situation

##### *Florida Charitable Property Tax Exemption*

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,<sup>44</sup> and it provides for specified assessment limitations, property classifications and exemptions.<sup>45</sup> After the local property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.<sup>46</sup> Such exemptions include, but are not limited to, exemptions for such portions of property used predominately for educational, literary, scientific, religious, or charitable purposes.<sup>47</sup>

The Legislature implemented these constitutional exemptions and set forth the criteria used to determine whether property is entitled to an exemption for use as a charitable, religious, scientific, or

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<sup>43</sup> Section 196.173(3), F.S.

<sup>44</sup> Fla. Const., art. VII, s. 4.

<sup>45</sup> Fla. Const., art. VII, ss. 3, 4, and 6.

<sup>46</sup> Section 196.031, F.S.

<sup>47</sup> Fla. Const., art. VII, s. 3.

literary purpose.<sup>48</sup> Specific provisions exist for property for hospitals, nursing homes, and homes for special services;<sup>49</sup> property used for religious purposes;<sup>50</sup> educational institutions<sup>51</sup> and charter schools;<sup>52</sup> labor organization property;<sup>53</sup> nonprofit community centers;<sup>54</sup> biblical history displays;<sup>55</sup> and affordable housing.<sup>56</sup>

In determining whether the use of a property qualifies the property for an ad valorem tax exemption, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.<sup>57</sup> Only the portions of the property used predominantly for qualified purposes may be exempt from ad valorem taxation. If the property owned by an exempt organization is used exclusively for exempt purposes, it shall be totally exempt from ad valorem taxation.

### *Charitable Organizations*

Under federal law, an organization may only be tax-exempt if it is organized and operated for exempt purposes, including charitable and religious purposes.<sup>58</sup> None of the organization's earnings may benefit any private shareholder or individual, and the organization may not attempt to influence legislation as a substantial part of its activities. Charitable purposes include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government.

Florida law defines a charitable purpose as a function or service which is of such a community service that its discontinuance could legally result in the allocation of public funds for the continuance of the function or the service.<sup>59</sup>

### *Determining Profit vs. Non-Profit Status of an Entity*

Current law outlines the criteria a local property appraiser must consider in determining whether an applicant for a religious, literary, scientific, or charitable exemption is a nonprofit or profit-making venture for the purposes of receiving an exemption.<sup>60</sup> An applicant must provide the property appraiser with "such fiscal and other records showing in reasonable detail the financial condition, record of operations, and exempt and nonexempt uses of the property . . . for the immediately preceding fiscal year."<sup>61</sup>

The applicant must show that "no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose."<sup>62</sup>

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<sup>48</sup> Sections 196.195 and 196.196, F.S.

<sup>49</sup> Section 196.197, F.S.

<sup>50</sup> Sections 196.1975(3) and 196.196(3), F.S.

<sup>51</sup> Section 196.198, F.S.

<sup>52</sup> Section 196.1983, F.S.

<sup>53</sup> Section 196.1985, F.S.

<sup>54</sup> Section 196.1986, F.S.

<sup>55</sup> Section 196.1987, F.S.

<sup>56</sup> Section 196.196(5), F.S.

<sup>57</sup> Section 196.196(1)(a)-(b), F.S.

<sup>58</sup> 26 U.S.C. § 501(c)(3).

<sup>59</sup> Section 196.012(7), F.S.

<sup>60</sup> Section 196.195, F.S.

<sup>61</sup> Section 196.195(1), F.S.

<sup>62</sup> Section 196.195(3), F.S.

Based on the information provided by the applicant, the property appraiser must determine whether the applicant is a nonprofit or profit-making venture or if the property is used for a profit-making purpose.<sup>63</sup> In doing so, the property appraiser must consider the reasonableness of various payments, loan guarantees, contractual arrangements, management functions, capital expenditures, procurements, charges for services rendered, and other financial dealings.

A religious, literary, scientific, or charitable exemption may not be granted until the property appraiser, or value adjustment board on appeal, determines the applicant to be nonprofit.<sup>64</sup>

#### *Additional Criteria for Hospitals, Nursing Homes, and Homes for Special Services*

In addition to the above criteria, hospitals,<sup>65</sup> nursing homes<sup>66</sup> and homes for special services<sup>67</sup> must be a Florida non-profit corporations that are exempt organizations under the provisions of s. 501(c)(3) of the Internal Revenue Code.<sup>68</sup>

In determining the extent of the exemption to be granted to hospitals, nursing homes, and homes for special services, portions of the property leased as parking lots or garages operated by private enterprise are not exempt from taxation.<sup>69</sup> Property or facilities which are leased to a nonprofit corporation which provides direct medical services to patients in a nonprofit or public hospital and qualify under s. 196.196, F.S., are exempt from taxation.<sup>70</sup>

#### *Federal Charity Care Reporting Requirements*

To qualify for federal tax exemption, hospitals must report their community benefit activities to the Internal Revenue Service by filing IRS Form 990 and a supplemental Schedule H form. Community benefit activities include the net, unreimbursed costs of charity care (providing free or discounted services to patients who qualify under the hospital's financial assistance policy); participation in means-tested government programs, such as Medicaid; health professions education; health services research; subsidized health services; community health improvement activities; and cash or in-kind contributions to other community groups.<sup>71</sup> Net community benefit activities do not include revenue from uncompensated care pools or programs, such as Low Income Pool or Disproportionate Share Hospital funds.<sup>72</sup>

#### Proposed Changes

The bill requires that the value of charity care provided by a hospital in each county be compared to the tax value of the hospital's property exemption in each county. If the value of the charity care is less than the tax value of the all of the hospital's exempt property, then the hospital's exemption on each parcel in a county will be reduced to reflect the ratio of the hospital's charity care in the county to the tax value

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<sup>63</sup> Section 196.195(2)(a)-(e), F.S.

<sup>64</sup> Section 196.195(4), F.S.

<sup>65</sup> Section 196.012(8), F.S., "Hospital" means an institution which possesses a valid license granted under chapter 395 on January 1 of the year for which exemption from ad valorem taxation is requested

<sup>66</sup> Section 196.012(8), F.S., "Nursing home" or "home for special services" means an institution that possesses a valid license under chapter 400 or part I of chapter 429 on January 1 of the year for which exemption from ad valorem taxation is requested.

<sup>67</sup> *Id.*; s. 400.801, F.S. "Home for special services" means a site licensed by AHCA prior to January 1, 2006, where specialized health care services are provided, including personal and custodial care, but not continuous nursing services.

<sup>68</sup> Section 196.197, F.S.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> James, Julia. Health Affairs, *Nonprofit Hospitals' Community Benefit Requirements* (2016), available at:

<https://www.healthaffairs.org/doi/10.1377/hpb20160225.954803/full/> (last viewed Feb. 28, 2019); Department of the Treasury, Internal Revenue Service, *Instructions for Schedule H (Form 990)* (2018), on file with Health Market Reform Subcommittee Staff.

<sup>72</sup> Department of the Treasury, Internal Revenue Service, *Instructions for Schedule H (Form 990)* (2018), on file with Health Market Reform Subcommittee Staff.

of all of the hospital's exempt property in the county. The bill allows hospitals to attribute its charity care expenses to any county as long as the total charity care value statewide equals the total value of charity care attributed on a county by county basis. The bill sets forth specific computations for the above.

The bill requires hospitals when applying for the exemption each year to provide to DOR their IRS form 990, schedule H, and a schedule displaying; 1) the value of charitable services attributed to each Florida county in which a hospital's properties are located; and 2) the portion of charitable services reported by the hospital on its most recently filed IRS Form 990, schedule H, attributable to the services and activities provided or performed by the hospital outside of Florida. The sum of the amounts provided in the schedule must equal the total net community benefit expense reported by the hospital on its most recently filed IRS Form 990, schedule H.

The bill requires county property appraisers to calculate and submit to DOR the amount of the tax reduction for each property owned by a hospital resulting from the exemptions allowed under ss. 196.196 and 196.197, F.S. DOR must determine whether the county net community benefit expense attributed to an applicant's property located in a county equals or exceeds the tax reductions resulting from the property tax exemptions under ss. 196.196 and 196.197, F.S., for that county. In any second consecutive year DOR determines that an applicant's county net community benefit expense does not equal or exceed the tax reductions resulting from the exemptions under ss. 196.196 and 196.197, F.S., DOR shall notify the respective property appraiser by March 15 to limit the exemption for the current year in the property appraiser's county by multiplying the exemption by the ratio of the net community benefit expense to the tax reductions resulting from the exemptions under ss. 196.196 and 196.197, F.S.

The bill also requires hospitals to provide a statement signed by the hospital's CEO and an independent certified public accountant that certain information submitted is true and correct.

## **Affordable Housing**

### Current Situation

Property used to provide housing to low-income persons or families is exempt from property tax.<sup>73</sup> The property must be owned by a not-for-profit corporation that is qualified as charitable under 501(c)(3) of the Internal Revenue Code, and the resident's income must be below the thresholds for extremely-low-, very-low-, low-, or moderate-income.<sup>74</sup>

Units that are vacant do not qualify for the exemption.<sup>75</sup> Similarly, units that are rented to persons who began their tenancy meeting the income thresholds, but whose income grew beyond the qualifying income thresholds do not qualify for exemption.

As indicated above, the affordable housing property must be owned by a 501(c)(3) organization; however, if the property is owned by a limited liability company that is disregarded for federal tax purposes and has a sole member, the statute allows the property appraiser to disregard the limited liability company and treat the sole member of the limited liability company as the owner of the property. If that sole member is a qualifying 501(c)(3) organization, the property qualifies for exemption.<sup>76</sup> In some instances, affordable housing properties have been required to insert another limited liability company between the original limited liability company and the property. Under current law, these arrangements do not qualify for the exemption.

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<sup>73</sup> Section 196.1978, F.S.

<sup>74</sup> Section 196.1978(1), F.S.

<sup>75</sup> *Parrish v. Pier Club Apartments, LLC.*, 900 So. 2d 683 (Fla. 4<sup>th</sup> DCA 2005).

<sup>76</sup> Section 196.1978(1), F.S.

## Proposed Changes

The bill exempts vacant units and units occupied by persons or families that met the qualifying income thresholds at the time they began their tenancy, but whose income grew beyond the income thresholds. These units are exempted if the entire property is dedicated to providing affordable housing and is being offered for rent.

The bill also exempts an affordable housing project owned by a limited liability company, which is also owned by a limited liability company, as long as the owner of the second limited liability company is a qualifying 501(c)(3) entity.

## **Value Adjustment Boards**

### Current Situation

Part 1 of ch. 194, F.S., provides for the administrative review of ad valorem tax assessments and exemption denials through local value adjustment boards (VABs). The VAB hearings are a venue in which taxpayers can present their case to a neutral party without the need to hire an attorney or go through the formal process of a circuit court case.

Current law authorizes a property owner to initiate a review by filing a petition with the clerk of the VAB within 25 days of the mailing of the Truth in Millage (TRIM) notice.<sup>77</sup>

In most counties, the VAB hearing takes place in front of a special magistrate instead of the VAB.<sup>78</sup> Special magistrates are experienced appraisers and attorneys who are hired to serve as impartial hearing officers.<sup>79</sup> After the hearing the special magistrate produces a recommended decision which is given to the VAB which produces the final decision. This step does not occur if the VAB hears the petition directly.

Once the final written decision is issued by the VAB, if the petitioner disagrees with the decision, he or she then has 60 days to file an action in circuit court contesting that decision.<sup>80</sup> However, an appeal of a VAB decision by the property appraiser must be filed, if the tax roll has been extended during a VAB hearing, within 30 days of the certification.<sup>81</sup> In addition, it does not appear that either party is afforded the authority to file a counterclaim to an appeal.

## Proposed Changes

As current law requires VAB special magistrates to be qualified individuals, many are familiar with and employed in the appraisal business. The bill strengthens the statutory provisions that address conflict of interest for special magistrates. Specifically, the bill amends s. 194.035(1), F.S., providing that an appraisal performed by a special magistrate may not be submitted as evidence to the value adjustment board in any roll year during which he or she has served on that board as a special magistrate.

## **The Truth in Millage (TRIM) notice**

### Current Situation

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<sup>77</sup> Section 194.011(3), F.S.

<sup>78</sup> Section 194.035(1), F.S., requires the use of special magistrates in counties with a population over 75,000. Smaller counties may opt to use special magistrates.

<sup>79</sup> Section 194.035(1), F.S.

<sup>80</sup> Section 194.171(2), F.S.

<sup>81</sup> Section 193.122(4), F.S.

Each August, a TRIM notice is sent out by the property appraiser to all taxpayers providing specific information about their parcel.<sup>82</sup>

The TRIM notice lists each taxing authority that levies taxes on the property, how much they collected from that parcel in the previous year, how much they propose to collect this year, and how much would be levied on the property if the taxing authority made no budget changes.<sup>83</sup> It also lists the day and time that the taxing authority will be holding its preliminary budget hearing, so that the taxpayer can participate in the process and provide input to the taxing authority if they disagree with the proposed taxes.<sup>84</sup> After this meeting, where a tentative millage (tax) rate and budget are adopted, the taxing authority must then publish the proposed millage rate<sup>85</sup> and the proposed budget<sup>86</sup> in a newspaper of general circulation before holding a meeting for the final adoption of the millage rate and budget.<sup>87</sup> This gives citizens two opportunities to have input into the process of setting the millage rate and budget.

The TRIM notice also provides key information about the valuation of the property. It lists the value the property appraiser has placed on the property, shows any reductions which have been made to that value due to a classification or assessment limitation, and shows what exemptions have been granted on that property and the value of those exemptions.<sup>88</sup> This gives taxpayers notice of the assessment of their property, lets them review any assessment limitations or classifications applied, allows them to check to make sure they are getting all of the exemptions they are entitled to receive, and allows them to dispute any of these matters before the tax bills are sent out.

### Proposed Changes

The bill prohibits inclusion in the annual TRIM notice of information or statements not relating to the items that are in the notice. Specifically, the bill amends s. 200.069, F.S., prohibiting the property appraiser from including in the mailing of the notice of ad valorem taxes and non-ad valorem assessments additional information unless such information explains a component of the notice or provides information directly related to the assessment and taxation of the property.

## Tourist Development Taxes

### Current Situation

The Local Option Tourist Development Act<sup>89</sup> authorizes counties to levy five separate taxes on transient rental<sup>90</sup> transactions (“tourist development taxes” or “TDTs”). Depending on a county’s eligibility to levy such taxes, the maximum tax rate varies from a minimum of three percent to a maximum of six percent:

- The original TDT may be levied at the rate of 1 or 2 percent.<sup>91</sup>

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<sup>82</sup> Section 200.069, F.S.

<sup>83</sup> *Id.*

<sup>84</sup> Section 200.069(4)(g), F.S.

<sup>85</sup> Section 200.065(3), F.S.

<sup>86</sup> Section 200.065(3)(1), F.S.

<sup>87</sup> Section 200.065 (2)(d), F.S.

<sup>88</sup> Section 200.069(6), F.S.

<sup>89</sup> Section 125.0104, F.S.

<sup>90</sup> Section 125.0104(3)(a)(1), F.S. considers “transient rental” to be the rental or lease of any accommodation for a term of 6 months or less.

<sup>91</sup> Section 125.0104(3)(c), F.S. Sixty-three counties levy this tax, all at a rate of 2 percent. Office of Economic & Demographic Research (EDR), Local Option Tourist / Food & Beverage Tax Rates, *available at* <http://edr.state.fl.us/Content/local-government/data/county-municipal/> (last visited Jan. 25, 2020). These counties are expected to collect an estimated \$1.01 billion in revenue in the 2019-2020 state fiscal year. 2019 Local Government Financial Information Handbook, p. 243, *available at* <http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf> (last visited Feb. 3, 2020).

- An additional 1 percent tax may be levied by counties who have previously levied a TDT at the 1 or 2 percent rate for at least three years.<sup>92</sup>
- A high tourism impact tax may be levied at an additional 1 percent.<sup>93</sup>
- A professional sports franchise facility tax may be levied up to an additional 1 percent.<sup>94</sup>
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.<sup>95</sup>

### *TDT Process*

Each county that levies the original 1 or 2 percent tax is required to have a “tourist development council.”<sup>96</sup> The tourist development council is a group of residents from the county that are appointed by the county governing authority. The tourist development council, among other duties, makes recommendations to the county governing authority for the effective operation of the special projects or for uses of the TDT revenue.

Prior to the authorization of the original 1 or 2 percent TDT, the levy must be approved by a countywide referendum<sup>97</sup> and additional TDT levies must be authorized by a vote of the county’s governing authority or by voter approval of a countywide referendum.<sup>98</sup> Each county proposing to levy the original 1 or 2 percent tax must then adopt an ordinance for the levy and imposition of the tax,<sup>99</sup> which must include a plan for tourist development prepared by the tourist development council.<sup>100</sup> The plan for tourist development must include the anticipated net tax revenue to be derived by the county for the two years following the tax levy, as well as a list of the proposed uses of the tax and the approximate cost for each project or use.<sup>101</sup> The plan for tourist development may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.<sup>102</sup>

### *TDT Uses*

Current statute prescribes the authorized uses of TDT revenues, which includes tourism marketing, water- or beach-oriented projects, and construction of tourist-related facilities.<sup>103</sup> The permitted uses of each local option tax vary according to the particular levy.

Revenues received by a county from a tax levied under s. 125.0104(3)(c) and (d), F.S. (the original 1 or 2 percent levy and the additional 1 percent levy), must be used only for purposes listed in s. 125.0104(5), F.S. Revenues received by a county from a tax levied under s. 125.0104(3)(m), F.S. (the

<sup>92</sup> Section 125.0104(3)(d), F.S. Fifty-four of the eligible 59 counties levy this tax, with an estimated 2019-20 state fiscal year collection of \$169 million. *Id at 263.*

<sup>93</sup> Section 125.0104(3)(m), F.S. Seven of the nine eligible counties levy this tax, with an estimated 2019-20 state fiscal year collection of \$106 million. *Id at 269.*

<sup>94</sup> Section 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and convention centers and to promote and advertise tourism. Forty-five of the 67 eligible counties levy this additional tax, with an estimated 2019-20 state fiscal year collection of \$183 million. *Id at 267.*

<sup>95</sup> Section 125.0104(3)(n) F.S. Thirty of the eligible 65 counties levy the additional professional sports franchise facility tax, with an estimated 2019-20 state fiscal year collection of \$147 million. *Id at 273.*

<sup>96</sup> Section 125.0104(4)(e), F.S.

<sup>97</sup> Section 125.0104(6), F.S.

<sup>98</sup> Section 125.0104(3)(d), F.S.

<sup>99</sup> Section 125.0104(4)(a), F.S.

<sup>100</sup> Section 125.0104(4), F.S.

<sup>101</sup> *See s. 125.0104(4), F.S.*

<sup>102</sup> *See s. 125.0104(4), F.S.* The provisions found in ss. 125.0104(4)(a)-(d), F.S., do not apply to the high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.

<sup>103</sup> Florida Legislative Committee on Intergovernmental Relations, Issue Brief: Utilization of Local Option Tourist Taxes by Florida Counties in Fiscal Year 2009-10 (December 2009), available at <http://edr.state.fl.us/Content/local-government/reports/localopttourist09.pdf> (last visited Jan. 25, 2020).

High Tourism Impact Tax of 1%), must also be used for purposes listed in s. 125.0104(5), F.S. These purposes include that in counties with populations less than 750,000, tourist development tax revenue may be used for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement, maintenance, operation, or promotion of zoos, fishing piers, or nature centers which are publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.

#### Proposed Changes

The bill increases from 750,000 to 950,000, the current population threshold under which counties are allowed to use tourist development tax revenue for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement, maintenance, operation, or promotion of zoos, fishing piers, or nature centers which are publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.

#### **Student Station Requirements**

##### Current Situation

A district school board may not use funds from any source for the new construction of an educational facility with a total cost per student station exceeding the cost per student station limits unless a contract for architectural and design services or for construction management services was executed before July 1, 2017; however, this limitation does not apply to educational facilities subject to a lease-purchase agreement.

##### Proposed Changes

The bill exempts from the total cost per student station limitation new public school construction projects funded solely through local impact fees.

#### **Section 179D Letters**

##### Current Situation

Section 179D of the Internal Revenue Code provides a federal income tax deduction for the cost of energy efficient commercial building property. For energy efficient commercial property installed on government property, the deduction is authorized for the person primarily responsible for designing the property. The designer is treated as the taxpayer in that instance. This process is known as "allocation" and is typically accomplished by the designer securing an allocation letter from the government entity involved.

##### Proposed Changes

The bill prohibits an owner of a public building or the owner's employee from seeking, accepting, or soliciting any payment or other form of consideration for providing the written allocation letter.

#### **Department of Revenue Tax Administration and Oversight Legislative Concepts**

##### **General Tax Administration**

##### **Extending Documentation Period for Purchases of Boats And Aircraft**

##### Current Situation



Nonresidents<sup>104</sup> who purchase a boat or aircraft in Florida for use in other locations are not required to pay Florida sales tax on their purchase if the item is removed from the state within a statutory time frame and documentation is provided to DOR to show that the boat or aircraft was removed and titled or registered in another jurisdiction. Currently, the following time limits are in statute:

- A purchaser has **30 days** from the date of departure to provide DOR with documentation that the boat or aircraft has been titled or registered in another jurisdiction. If proof of registration is not available within **30 days**, the purchaser must provide evidence that the registration was applied for in another jurisdiction within the timeframe and must send a follow up to DOR with the registration once it has been received.
- A purchaser has **10 days** from the date the boat or aircraft left Florida to provide DOR with proof of the removal.
- The selling dealer has **5 days** from the date of the sale to provide to DOR a copy of the invoice (or other proof of sale) and a copy of the original affidavit from the purchaser attesting that he or she has read the statute on nonresident purchases.

### Proposed Changes

The bill extends each of the current statutory deadlines for documentation to allow additional time for the purchaser and dealer to provide information to DOR as follows:

- Proof of titling or registration- **90 days**,
- Proof of removal- **30 days**, and
- Dealer provision of invoice- **30 days**.

### **Form 1099-K Reporting Requirement**

#### Current Situation

Section 6050W of the Internal Revenue Code requires certain entities to file a return each year providing information about payments made by credit card or third party merchants.<sup>105</sup> The return is Form 1099-K, and is required to be filed for each calendar year on or before the last day of February of the year following the transactions.<sup>106</sup>

Reportable transactions include any transaction where the payment method is a payment card (credit card, debit card, or similar) or a third party payment system (like PayPal or Apple Pay). The return is filed by the payment settlement entity (e.g., a bank, credit card company, or payment platform like PayPal) and a copy is provided to dealers who have payment card transactions (credit card sales) of any amount, or who have third-party payment transactions (e.g., PayPal) in excess of \$20,000 over more than 200 transactions.<sup>107</sup> These sales should be included in the payee's gross income on their tax returns for the year.

Some states require payment settlement entities to submit a copy of any Form 1099-K related to sales in that state or for residents of that state, if the IRS already requires the Form 1099-K to be filed. Examples include Alabama,<sup>108</sup> Tennessee,<sup>109</sup> North Carolina,<sup>110</sup> and New York.<sup>111</sup>

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<sup>104</sup>Section 212.05(1)(a)2., F.S., provides that Florida sales tax does not apply to the purchase of a boat or aircraft if the purchaser is, at the time of delivery, (1) a nonresident of the state, (2) not engaged in carrying on a trade or business which would use the boat or aircraft in the state, and (3) not a corporation which has any Florida resident officers or directors.

<sup>105</sup> 26 U.S. Code s. 6050W(e)

<sup>106</sup> <https://www.irs.gov/forms-pubs/about-form-1099-k> (last visited Feb. 4, 2020).

<sup>107</sup> <https://www.irs.gov/businesses/understanding-your-form-1099-k> (last visited Feb. 4, 2020).

<sup>108</sup> <https://revenue.alabama.gov/2018/02/new-1099-k-filing-requirement/> (last visited Feb. 4, 2020).

<sup>109</sup> <https://www.tn.gov/revenue/taxes/sales-and-use-tax/1099-k-filing-requirement.html> (last visited Feb. 4, 2020).

<sup>110</sup> [https://www.ncdor.gov/file-pay/guidance-information-reporting#payment-settlement-entity-\(1099k\)](https://www.ncdor.gov/file-pay/guidance-information-reporting#payment-settlement-entity-(1099k)) (last visited Feb. 4, 2020).

<sup>111</sup> [https://www.tax.ny.gov/bus/multi/reporting\\_requirements.htm](https://www.tax.ny.gov/bus/multi/reporting_requirements.htm) (last visited Feb. 4, 2020).

For states that do not require separate copies of Form 1099-K to be filed with them, the IRS provides those returns to the states for tax enforcement purposes.<sup>112</sup> There can be a delay in when that information becomes available to the states, which negatively impacts the state's ability to use the tax data for enforcement purposes. Most states have a limited window in which an audit can take place. In Florida, for example, audits have a three-year statute of limitations.<sup>113</sup> If information is not received quickly from the IRS, then transactions that would have been included in an audit may be outside the statute of limitations by the time they are received.

### Proposed Changes

The bill provides that entities required to file Form 1099-K, must file a copy with DOR electronically within 30 days of filing the federal return. The bill also creates a penalty of \$1,000 for each month a required return is not filed with DOR, up to \$10,000 per year per reporting entity. This penalty may be waived by DOR if it determines the failure was due to reasonable cause.

## **Tolling the Period in Which a Taxpayer Can File a Refund Claim**

### Current Situation

Under Florida law, a taxpayer has the ability to file an application for a refund when they have paid a tax in error, have made an overpayment of tax, or have paid tax when no tax was due.<sup>114</sup> Generally, a taxpayer has three years from the time the tax was paid to apply for the refund.<sup>115</sup>

When a taxpayer has been audited and would like to dispute the outcome of the audit; or when the taxpayer has applied for a refund, been denied, and would like to dispute the refund denial; they have the option to protest their case under s. 213.21, F.S., which provides for informal protest conferences.<sup>116</sup> The informal protest conference process provides taxpayers a separate and independent forum to challenge audit assessments and refund denials.

The time limit for the department to make a tax assessment is tolled (frozen) during an audit protest under s. 213.21, F.S., thus protecting the state's interest.<sup>117</sup> However, specific statutory authority is not provided to freeze the time limit for a taxpayer to file a refund claim for overpayment of taxes during these same protests.

### Proposed Changes

The bill amends s. 213.21, F.S., related to informal audit protests, to provide specific statutory language that, during an informal audit protest, the time limit for a taxpayer to file a refund claim is frozen. This will extend the time a taxpayer has to file a refund claim for an overpayment of taxes arising from the audit period under protest.

## **Dyed Diesel Fuel Penalty Revision**

### Current Situation

Florida law allows consumers to purchase diesel fuel free from state and local taxes if used for certain exempt purposes.<sup>118</sup> These purposes are limited to: use on a farm for farming purposes, exclusive use by a local government, use in a vehicle owned by an aircraft museum, exclusive use by the American Red Cross, use in a vessel employed in the business of commercial transportation or in commercial

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<sup>112</sup> This information sharing is authorized by section 6103(d), IRC. The Internal Revenue Manual, Part 11, Chapter 3, Section 32, provides more information about the disclosures to states for tax administration purposes. It is available online at [https://www.irs.gov/irm/part11/irm\\_11-003-032](https://www.irs.gov/irm/part11/irm_11-003-032) (last visited Feb. 4, 2020).

<sup>113</sup> Section 95.091(3)(a)1.a., F.S., provides a statute of limitations that allows for assessments of tax "within 3 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later."

<sup>114</sup> Section 215.26(1), F.S.

<sup>115</sup> Section 215.26(2), F.S.

<sup>116</sup> Section 213.21(1)(a), F.S.

<sup>117</sup> Section 213.21(1)(b), F.S.

<sup>118</sup> Section 206.874(1)(a), F.S.

fishing, use in a school bus, use in a local bus service open to the public, exclusive use by a nonprofit educational facility, use in a motor vehicle owned by the US Government which is used off-highway, use in a vessel of war, use for home heating, use in certain off-road or stationary equipment, and use for recreational vessels.<sup>119</sup> Each local government or mass transit system provider that intends to purchase dyed diesel must register with DOR before making exempt purchases.<sup>120</sup>

Tax free diesel fuel is marked with a red dye<sup>121</sup> and invoices, shipping papers, bills of lading, pumps, and other related items associated with the sale are required to be marked with the statement “Dyed Diesel Fuel, Nontaxable Use Only, Penalty for Taxable Use.”<sup>122</sup>

Failure to include the required statement requires a mandatory penalty of \$10 for every gallon or \$1,000, whichever is greater.<sup>123</sup> This has resulted in large penalties being assessed on taxpayers, even when all tax has been paid, for failure to include the statement “Dyed Diesel Fuel, Nontaxable Use Only, Penalty for Taxable Use” due to the mandatory \$10 per gallon penalty requirement.

### Proposed Changes

The bill revises the penalty to \$2,500 for each month there is a failure to include the notice as required.

## **Fuel Tax Bond Requirement Increase**

### Current Situation

Fuel dealers are required to pay taxes either to their supplier or directly to the state.<sup>124</sup> If a fuel dealer is unable to pay their supplier, Florida law allows the supplier to request a bad debt credit from the state.<sup>125</sup> If the entity fails to remit a tax payment directly to the state, a liability is created, and a bill is generated. There may be instances where the state is unable to collect on the bad debt or bill because an entity goes out of business, bankruptcy is filed, or fraud has occurred. Section 206.05, Florida Statutes attempts to mitigate these risks by requiring each taxpayer to obtain a bond.

Sections 206.05 and 206.90, F.S., require fuel tax dealers to file with DOR a bond of not more than \$100,000 to allow for recovery of unpaid tax. The amount is described in statute as “approximately 3 times the combined average monthly tax levied...during the preceding 12 calendar months.”<sup>126</sup> DOR calculates the bond amount specific to each taxpayer, but cannot impose a bond in excess of the statutory cap.

Based on information provided by DOR, three times the combined average monthly tax levied for motor fuel terminal suppliers is currently \$405,209.<sup>127</sup> Three times the average levy for motor fuel wholesalers and importers is \$151,459. The three-month average of these two types of motor fuel dealers is currently \$278,334.

### Proposed Changes

The bill updates the bond amount to \$300,000. This amount is slightly higher than the current three-month average tax levied for motor fuel dealers.

## **Reemployment Tax E-File Revisions**

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<sup>119</sup> Section 206.874(3), F.S.

<sup>120</sup> Section 206.874(4) and (5), F.S.

<sup>121</sup> See Rule 12B-5.140(1), F.A.C., and 48.4082-1(b), Treasury Regulations (Feb. 26, 2002), which specifies the dye “Solvent Red 164 (and no other dye) at a concentration spectrally equivalent to at least 3.9 pounds of the solid dye standard Solvent Red 26 per thousand barrels of diesel fuel.”

<sup>122</sup> Section 206.8741(2), F.S.

<sup>123</sup> Sections 206.8741(6) and 206.872(11), F.S.

<sup>124</sup> See, e.g., s. 206.054(1),(4), F.S.

<sup>125</sup> See s. 206.43, F.S.

<sup>126</sup> Section 206.05(1), F.S.

<sup>127</sup> Email correspondence with DOR staff, Feb. 6, 2020, on file with House Ways & Means Committee.

## Current Situation

Currently, an agent who prepared and reported for 100 or more employers in any quarter of the preceding state fiscal year is required to remit reemployment tax payments and file wage reports by electronic means.<sup>128</sup> In addition, any single employer with 10 or more employees in any quarter during the prior state fiscal year is required to remit reemployment tax reports and payments by electronic means.<sup>129</sup>

If reporting entities fail to file electronically when required by law, then they are subject to a penalty of \$50 for the non-electronically-filed report plus \$1 per employee included on the report.<sup>130</sup> If they fail to pay electronically when required by law, there is an additional penalty of \$50 for each remittance submitted non-electronically.<sup>131</sup>

DOR has the authority to waive the requirement for electronic filing of reports if the filer is unable to comply despite good faith efforts.<sup>132</sup> Reasonable basis to grant this waiver include circumstances in which the employer does not file or store data electronically with any business or government agency, or does not have a computer that meets department standards.<sup>133</sup> Alternative acceptable reasons include the need for programming time, financial hardship, or conflict with business procedures.<sup>134</sup>

An employer or agent also has the ability to request a waiver for the penalty. This waiver request must be in writing and must establish that the imposition of the penalty would be inequitable.<sup>135</sup> Examples of circumstances which would give rise to an inequitable penalty include the death or serious illness of the person responsible for the report, destruction of the records by fire or other casualty, or unscheduled and unavoidable computer downtime.<sup>136</sup>

Corrections to wage reports are able to be submitted electronically, but employers who file and pay electronically are not required to use the electronic method.

Since the electronic filing requirement for agents, and the related penalty, were created, there have been administrative issues in tracking which employers are filing for themselves, and which are filing through an agent. This led to unnecessary billing of agents, and caused confusion for taxpayers and the Department.<sup>137</sup>

DOR reviewed filings under this section and determined that over 99% of returns filed by obligated (required to e-file) agents were e-filed.<sup>138</sup> DOR believes this will continue even without the statutory requirement, as electronic submissions are more efficient than paper filings.<sup>139</sup>

In addition, the DOR reviewed similar provisions in other southern states, and Alabama, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Texas, all elect not to bill agents for this issue.<sup>140</sup>

## Proposed Changes

Section 443.163, F.S., is amended to make the following statutory changes:

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<sup>128</sup> Section 443.163(1), F.S.

<sup>129</sup> *Id.*

<sup>130</sup> Section 443.163(1)(a), F.S.

<sup>131</sup> *Id.*

<sup>132</sup> Section 443.163(3), F.S.

<sup>133</sup> Section 443.163(3)(a), F.S.

<sup>134</sup> Section 443.163(3)(b), F.S.

<sup>135</sup> Section 443.163(5), F.S.

<sup>136</sup> Section 443.163(5)(a)-(c), F.S.

<sup>137</sup> “Reemployment Tax Agent Requirement” document received from the Department of Revenue on Feb. 4, 2020. On file with the staff of House Ways & Means Committee.

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

- Require employers to file corrections electronically if they are required to file reports and make payments electronically;
- Reduce electronic filing penalties so they are consistent with other reemployment tax penalties;<sup>141</sup>
- Remove the requirement for a written penalty waiver request so that waivers can be granted more quickly; and
- Remove the electronic filing and payment requirements and penalty for agents to reduce unnecessary billing.

## **Electronic Notification**

### Current Situation

DOR provides taxpayers official notice of actions such as billings, audits, and assessments by United States Postal Service mail delivery.<sup>142</sup> Certain communications, like ongoing communications related to an audit, general taxpayer information publications, or updates to a taxpayer's account, may be conducted using e-mail if requested by the taxpayer.

This limited use of email is consistent with s. 213.053(5)(b), F.S., which specifically provides that DOR is authorized to use e-mail or other electronic means to distribute information relating to changes in law, tax rates, interest rates, or other information that is not specific to a particular taxpayer; to remind taxpayers of due dates; to respond to a taxpayer at an electronic mail address that does not support encryption if the use of that address is authorized by the taxpayer; or to notify taxpayers to contact DOR.

Electronic notification is not used for formal agency action, even in cases where DOR has communicated with the taxpayer for an extended time through electronic means or where the taxpayer requests electronic delivery.

### Proposed Changes

The bill provides specific authority for DOR to send taxpayers official notice of actions by electronic means if they receive the affirmative consent of the taxpayer.

## **Tax Jurisdiction Situsing and Distribution Adjustments**

### Current Situation

Upon registration with DOR, a business receives a county assignment in DOR's computer system based upon the best available address information. This assignment is used to determine local rates and revenue distributions for certain taxes.

DOR uses several sources to determine the county assignment, including United States Postal Service approved software and DOR's Address/Jurisdiction Database<sup>143</sup> that is used for Communications Services Tax<sup>144</sup> and Insurance Premium Taxes.<sup>145</sup>

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<sup>141</sup> Section 443.141(1)(b)1., F.S., provides for a \$25 per month penalty for delinquent reports.

<sup>142</sup> Certain taxes provide that notice of agency action should be by personal delivery or registered or certified mail. *See, e.g., s. 220.739, F.S.* In addition, s. 120.569(1), F.S., provides that any notice in any proceeding in which the substantial interests of a party are determined by an agency must be delivered or mailed to each party (or attorney of record) at the address of record.

<sup>143</sup> <https://pointmatch.floridarevenue.com/Default.aspx> (last visited Feb. 4, 2020).

<sup>144</sup> *See s. 202.22(2)(a), F.S., and Rule 12A-19.071, F.A.C., for more information on how the address/jurisdiction database is used for communications services tax purposes.*

<sup>145</sup> Insurance Premium Taxes are specific to street addresses. Insurers use the database to assign policies and premiums to local taxing jurisdictions. More information about how the database is used and updated for IPT purposes is available at <https://floridarevenue.com/taxes/taxesfees/Pages/ipt.aspx> (last visited Feb. 4, 2020).

The Address/Jurisdiction Database is currently updated twice a year, consistent with statutory requirements.<sup>146</sup> Updates must be provided by local jurisdictions 120 days before changes go into effect, and DOR must publish the updates 90 days before they go into effect.<sup>147</sup> Changes to the database are effective each January and July 1.<sup>148</sup>

Currently, local governments are not required to notify DOR of changes to county address information for sales tax purposes, and DOR may be unaware of changes in addresses, annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries which may affect a change in the rate assignment and subsequent revenue distribution.

Section 202.22, F.S., instructs counties and municipalities to furnish DOR with changes and updates to maintain accurate addresses in the Address/Jurisdiction Database for communications services tax purposes; however, some counties and jurisdictions do not routinely do so.

There is no statutory guidance on how to manage occurrences that require revenue distribution adjustments.

### Proposed Changes

The bill requires DOR to update the Address/Jurisdiction Database every six months based on information received from counties. Counties will be responsible for providing DOR with any updates necessary to identify subcounty special districts that may be subject to special tourist development taxes under s. 125.0104(3)(b), F.S., unless the county self-administers that tax.

These provisions align with existing requirements for the Address/Jurisdiction Database, and updates will follow the existing January 1/July 1 update schedule.

The bill also provides specific statutory guidance on how sales tax distribution adjustments resulting from address corrections should be addressed. Generally, for distributions of tourist development taxes, convention development taxes, or discretionary sales surtaxes, or for distributions from the Local Government Half-cent Sales Tax Clearing Trust Fund, misallocations caused by an incorrectly assigned address will be corrected moving forward from the date DOR is made aware of the mistake.

- If the county that should have received the distributions has complied with the notification provisions to update the Address/Jurisdiction Database in a timely manner, then misallocations may be corrected by adjusting distributions from the incorrect county to the correct county until the mistake is corrected. Those distributions will be prorated and may be distributed over an extended period, not to exceed three years.
- If the county that should have received the distributions did not comply with the notification provisions to update the Address/Jurisdiction Database in a timely manner, but the county which received the amount in error did update the Database in a timely manner, then the correction will only apply moving forward from the date DOR is made aware of the issue and no re-allocation will occur for past misallocations.
- If the counties prefer to address the adjustment using an alternative method, they may determine a preferred method and provide a copy of the interlocal agreement setting forth that method to DOR within 90 days of the date DOR is notified of the misallocation.

## **Property Tax Oversight**

### **Hurricane Michael – Rebuilding Start Time 3 yrs. To 5 Yrs. To Retain Caps**

#### *Assessments Limitations*

#### Current Situation

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<sup>146</sup> Section 202.22(2)(b)2., F.S.

<sup>147</sup> Section 202.22(2)(b)1. and 2., F.S.

<sup>148</sup> Section 202.22(2)(b)1., F.S.

Under current law changes, additions, or improvements to property are assessed at just value on January 1 after the changes, additions, or improvements are substantially completed. Sections 193.155(4)(b) (homesteads), 193.1554(6)(b), (non-homestead residential), and 193.1555(6)(b) (non-residential), F.S., stipulate that changes, additions, or improvements that replace all or a portion of property damaged or destroyed by misfortune or calamity shall not increase the assessed value of the property if the square footage of the property, as changed or improved, does not exceed 110 percent of the property before the damage or destruction, or if the square footage of the property, as changed or improved, does not exceed 1500 square feet.

These provisions apply to changes, additions, or improvements commenced within three years after the January 1 following the damage or destruction of the property.

### Proposed Changes

The bill extends from three years to five years the timeframe for commencing changes, additions or improvements that replace all or a portion of property damaged or destroyed by misfortune or calamity. Specifically, it creates s. 193.1557, F.S., to provide that for property damaged or destroyed by Hurricane Michael in 2018, the provisions of sections 193.155(4)(b), 193.1554(6)(b), and 193.1555(6)(b), F.S., shall apply to changes, additions, or improvements commenced within five years after January 1, 2019. These provisions will apply for tax years 2019-2023 and are repealed on December 31, 2023.

## **Classification of Property**

### Current Situation

#### *Apartment Classification*

Under current law all items that are required by law to be on the assessment rolls must receive a classification based upon the use of the property.<sup>149</sup> Real property must be classified according to the assessment basis of the land. Apartment property is generally assessed in a manner similar to other commercial property but must be classified as multifamily, regardless of the number of units.

### Proposed Changes

The bill amends s. 195.073, F.S., to specify that apartment property with more than nine units should be classified as commercial property.

## **Review of Assessment Rolls**

### Current Situation

Section 195.096, F.S., requires DOR to conduct an in-depth review of the real property and tangible personal property assessment rolls of each county at least once every two years and report the results of its review to specified legislative staff and county officials. In conducting the assessment ratio studies, the department must adhere to the standards to which the property appraisers are required to adhere to and use all practicable steps to maximize the representativeness or statistical reliability of the samples of properties reviewed.

DOR must complete the review of the county assessment roll and publish the department's finding within 120 days after receiving the roll or within 10 days after the approval of the roll, whichever is later. During the review process, DOR must compute a confidence interval for the overall property tax roll and include in its findings a statement of the confidence interval for the median and any other measures that

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<sup>149</sup> Section 195.073, F.S.

may be appropriate for each classification or subclassification studied. The results should also include all related statistical and analytical details and measures for the real property assessment roll as a whole and the personal property assessment roll as a whole.

A recently completed Auditor General's report contained findings noting that DOR has not conducted in-depth reviews of tangible personal property and that the department has not met the requirement to compute a confidence interval for the overall property tax roll.

DOR has not conducted in-depth reviews of the tangible personal property rolls in over a decade as a result of the reassignment of staff in the legislative appropriations process. Also, there is no International Association of Assessing Officer guidance for computing a confidence interval for the property tax roll and the department has been unable to locate a statistical procedure for calculating this metric.

### Proposed Changes

The bill amends s. 195.096, F.S., to specify that in-depth reviews are only required for real property rolls and to remove statutory language requiring DOR to compute confidence intervals for the overall property tax roll.

## **TRIM Process Adjustments**

### Current Situation

Florida law requires local taxing authorities to annually follow the Truth in Millage (TRIM) process. Various noticing requirements, timeframes, and other required procedures are provided in law. During and following natural disasters, the TRIM process may be disrupted but no statutory direction is provided to address any modifications to the process that may be necessary due to the emergency. Historically, Governors have issued executive orders providing the authority for DOR to make the needed adjustments to the process.

### Proposed Changes

The bill amends s. 200.065, F.S., to provide alternative deadlines, scheduling requirements, revised notice delivery methods and other procedures that may be used by property appraisers and local taxing authorities as a result of a declared state of emergency.

## **Section 179D Letters**

### Current Situation

Section 179D of the Internal Revenue Code provides a federal income tax deduction for the cost of energy efficient commercial building property. For energy efficient commercial property installed on government property, the deduction is authorized for the person primarily responsible for designing the property. The designer is treated as the taxpayer in that instance. This process is known as "allocation" and is typically accomplished by the designer securing an allocation letter from the government entity involved.

### Proposed Changes

The amendment prohibits an owner of a public building or the owner's employee from seeking, accepting, or soliciting any payment or other form of consideration for providing the written allocation letter.



## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See FISCAL COMMENTS section.

#### 2. Expenditures:

See FISCAL COMMENTS section.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

See FISCAL COMMENTS section.

#### 2. Expenditures:

See FISCAL COMMENTS section.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides for a three day back-to-school sales tax holiday and a seven day disaster preparedness sales tax holiday.

### D. FISCAL COMMENTS:

The total state and local government revenue impact of the bill in Fiscal Year 2020-21 is estimated to be -\$47.4 million (all nonrecurring), including an impact of -\$36.9 million to the General Revenue Fund and -\$10.8 million on local government revenues. (see table on following page).

Appropriations—The bill includes \$311,000 in nonrecurring General Revenue appropriations, including \$241,000 to implement the “back-to-school” sales tax holiday and \$70,000 to implement the disaster preparedness sales tax holiday. Most of these appropriations are needed to pay the cost of notifying several hundred thousand sales tax dealers of either the temporary or permanent law changes.

**CS/HB 7097 (Enrolled)**

**Fiscal Year 2020-21 Estimated Fiscal Impacts (millions of \$)**

	General Revenue		State Trust Funds		Local		Total	
	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.
<u>Sales Tax</u> : Back-to-School Holiday 3 Days	(32.3)	-	(*)	-	(9.5)	-	(41.8)	-
<u>Sales Tax</u> : Tax Holiday/Disaster Preparedness	(4.3)	-	(*)	-	(1.3)	-	(5.6)	-
<u>Ad Valorem</u> : Deployed Service Discount/Update	-	-	-	-	(*)	(*)	(*)	(*)
<u>Ad Valorem</u> : Hospitals Exemption/Charity Care	-	-	-	-	**	**	**	**
<u>Insurance Premium Tax</u> : Surplus Lines Tax Rate	+/-	+/-	+/-	+/-	-	-	+/-	+/-
<u>Ad Valorem</u> : Affordable Housing Clarification	-	-	-	-	-	(*)	-	(*)
<u>DOR Legislative Concepts:</u>								
<u>Ad Valorem</u> : Hurr. Michael/Extend Rebuild Time	-	-	-	-	-	(**)	-	(**)
<u>Sales Tax</u> : Informational Returns/Credit Cards	**	**	**	**	**	**	**	**
<u>Sales Tax</u> : Statute of Limitations/Refunds	(**)	(**)	(**)	(**)	(**)	(**)	(**)	(**)
<u>Appropriations</u> : Tax Holidays/Rate Changes/Child Welfare Credits	(0.31)	-	-	-	-	-	(0.31)	-
<b>2020-21 Total</b>	<b>(36.9)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(10.8)</b>	<b>-</b>	<b>(47.7)</b>	<b>-</b>