

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 613 Tax Collector and License Plate Agency Operations

SPONSOR(S): Infrastructure & Tourism Appropriations Subcommittee; Tourism, Infrastructure & Energy Subcommittee; Aloupis

TIED BILLS: **IDEN./SIM. BILLS:** SB 884

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	13 Y, 2 N, As CS	Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee	14 Y, 0 N, As CS	Hicks	Davis
3) Commerce Committee	20 Y, 0 N	Johnson	Hamon

SUMMARY ANALYSIS

County tax collectors are the Department of Highway Safety and Motor Vehicles' (DHSMV) authorized agents to title and register motor vehicles, motor homes, and vessels, and to provide driver license services. However, appointed tax collectors in some charter counties are not authorized to provide driver license services. Some county tax collectors have contracted with privately-owned license plate agents (LPAs) to provide title and registration services. LPAs currently do not provide driver license services in Florida. Additionally, terms describing LPAs are not consistent across statute, nor are any of these terms defined.

The bill defines the term "license plate agency" and conforms various statutory provisions to use that term. The bill provides that operational requirements established by DHSMV policies and procedures must be the same for both governmentally and privately managed license plate agencies.

The bill provides that, effective October 1, 2021, the appointed tax collector of any charter county may contract with one or more LPAs to provide the following driver license services:

- Processing applications for the renewal of any driver license that is currently compliant with federal REAL ID Act requirements.
- Processing a reinstatement of a suspended driver license when the only condition of such reinstatement is payment of fees.
- Processing a licensee's or cardholder's change of address and application for a replacement driver license or identification card, if the driver license or identification card is currently compliant with federal REAL ID Act requirements.

The bill requires DHSMV, upon application of each tax collector electing to participate in the pilot project, to enter into an interagency agreement allowing the tax collector to provide driver license services. The bill clarifies that an LPA is not authorized to issue a driver license or identification card. The bill requires fingerprinting and background checks for a covered employee of an LPA prior to being able to provide such services. The bill prohibits the automatic transfer of information gathered for the completion of a driver license or identification card renewal or change of address to a voter registration application and requires that a printed notice with instructions on how to register to vote or update a voter registration record be provided. The bill provides that the funds collected by license plate agencies must be deposited into the state treasury within the same time period as required for tax collectors. The bill requires a review of the pilot project and establishes a submission date of December 31, 2025, for a final report that addresses the implementation of the project and the provision of the specified driver license services.

The bill will have a significant, negative fiscal impact on state government expenditures. See Fiscal Analysis section for details.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Under chs. 320 and 328, F.S., county tax collectors are the Department of Highway Safety and Motor Vehicles' (DHSMVs) authorized agents to title and register motor vehicles, motor homes, and vessels.¹ When processing these transactions, tax collectors charge and collect fees specified in state law,² which are remitted to the state. However, chs. 319, 320, and 328, F.S., also require tax collectors to retain certain statutorily prescribed service fees and charges.³

Currently, 65 counties have elected tax collectors who are constitutional officers, while Broward and Miami-Dade Counties have appointed tax collectors under each county's charter government. However, pursuant to s. 1(d), Article VIII of the State Constitution, these counties will have elected tax collectors effective January 7, 2025.⁴

Sixteen counties have, or until recently had, contracts with privately owned license plate agents (LPAs) to operate 57 offices to perform title and registration services for motor vehicles, mobile homes, and vessels. In counties with elected tax collectors, LPAs only charge the fees for those services as expressly authorized in statute. In these counties, the LPAs may retain all or a portion of the statutorily authorized service fee that tax collectors are allowed to collect for motor vehicle, mobile home, and vessel title and registration services, as provided in the contracts between the LPA and the tax collector.⁵ The LPAs in Broward and Miami-Dade Counties charge fees⁶ for motor vehicle, mobile home, and vessel title and registration fees *in addition* to the statutory fees authorized in chs. 319, 320, and 328, F.S. The additional fees levied in Broward and Miami-Dade Counties are levied pursuant to county ordinance and are retained by the LPAs.⁷

Terms such as "license tag agent" and "tag agency" appear throughout Florida Statutes, relating to private tag agencies authorized to perform certain motor vehicle-related transactions. However, these terms are not defined, nor are they used consistently across the statutes.

DHSMV has transitioned its driver license services from DHSMV-owned facilities to elected county tax collectors. Florida law required DHSMV to completely transition all driver license issuance services to tax collectors who are constitutional officers under s. 1(d), Article VIII of the State Constitution with this transition to be completed by June 30, 2015. The transition of services to appointed charter county tax collectors may occur on a limited basis as directed by DHSMV.⁸

Currently, LPAs do not provide driver license services anywhere in Florida.

Driver License Issuance Systems

DHSMV's Florida Driver License Information System (FDLIS) is the legacy driver license issuance system that will be completely replaced by May 2021 with the newly launched Online Registration and Identity Operating Network (ORION). ORION is the replacement database application which will be used to conduct all driver license and identification card issuances. ORION provides real-time access

¹ County tax collectors are expressly made agents of the state with respect to motor vehicle registration in s. 320.03(1), F.S., and with respect to vessel registration in s. 328.73(1), F.S.

² See s. 319.32, F.S., for motor vehicle title fees, s. 320.03, for motor vehicle registration fees, s. 320.04, F.S., as to motor vehicle service charges, and s. 328.72, F.S., as to vessel registration fees.

³ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 SB 342, p 2. (January 14, 2021).

⁴ *Id.*

⁵ *Id.*

⁶ Formerly the LPAs in Volusia County charged fees. An elected county tax collector took office on January 5, 2021, and the LPA offices closed by February 4, 2021. *Id.*

⁷ *Id.*

⁸ Section 322.02(1), F.S.

to extensive information on every driver, including driving history, vehicle insurance information, and personal identity information and documents.

FDLIS/ORION is installed in 195 tax collector offices in 63 counties in Florida and in the 15 driver license offices DHSMV operates in Broward and Miami-Dade counties.

Only DHSMV and elected tax collectors have access to FDLIS/ORION. Access to these systems is governed by individual memoranda of understanding (MOUs) between DHSMV and each tax collector.

Section 322.135(1)(c) F.S., requires county tax collectors to charge a \$6.25 service fee for providing driver license services.⁹

Federal REAL ID Act

The federal REAL ID Act of 2005 provides minimum security requirements for the issuance and production of state and territory driver licenses and identification cards in order for federal agencies to accept these documents for official purposes,¹⁰ which include entering federal facilities and boarding commercial aircraft.

Real ID Act compliant state-issued driver licenses and identification cards must include the following information:

- The person's full legal name, date of birth, and gender;
- The person's driver's license or identification card number;
- A digital photograph of the person¹¹ (all in-office transactions require the taking of the customer's photograph, even if the customer is only taking a test);
- The person's address of principal residence;
- The person's signature;
- Physical security features designed to prevent tampering, counterfeiting, or duplication of the driver licenses and identification cards for fraudulent purposes; and
- A common machine-readable technology, with defined minimum elements.

Additionally, the REAL ID Act mandates minimum standards that states must adopt when issuing driver license and ID cards. Each state or territory must:

- Require, at a minimum, presentation and verification of certain documents verifying a person's identity or address.
- Require valid documentary evidence of the applicant's lawful presence in the United States.
- Establish procedures verifying each document required to be presented by the applicant.
- Enter into a MOU with the Department of Homeland Security to access its system to verify the lawful status of an applicant, other than a U.S. citizen.
- Confirm with the Social Security Administration that the social security number presented by an applicant is registered to that person.
- Ensure the physical security of facilities where driver licenses and identification cards are produced; and the security of document materials and papers from which driver licenses and identification cards are produced.
- Require that all persons authorized to manufacture or produce driver licenses and identification cards must satisfy appropriate security clearance requirements.
- Incorporate physical security features on the driver licenses and identification cards which are designed to prevent tampering, counterfeiting, and duplication of the documents for a fraudulent purpose.

DHSMV has fully complied with and has been certified as compliant with the Real ID Act. As of January 2021, almost 95 percent of all Florida credentials are REAL ID compliant. Certification as compliant with the REAL ID Act means that Florida achieved and met the mandatory minimum requirements noted above. The consequences for a state or territory that fails to be certified as REAL ID compliant is

⁹ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 613, p. 5-6. (Mar. 5, 2021).

¹⁰ 49 U.S.C. 30301 note; 6 U.S.C. 111, 112.

¹¹ Section 202(b) of the Real ID Act.

that its driver license and identification cardholders will not be permitted to use their state-issued driver license or identification card for federal purposes, including as the identification required to board a commercial airplane.¹²

Due to the federal REAL ID Act, driver license offices must have specific types of equipment to issue driver licenses and identification cards over the counter. When a tax collector opens a driver license office, the tax collector pays the initial cost for all the equipment, a security safe, and security cameras; DHSMV provides and pays for the blank driver license and identification card stock. Approximately every five years, this equipment becomes obsolete and must be replaced. The cost to replace the outdated driver license equipment is paid for by DHSMV, pursuant to an appropriation.¹³

Motor Voter Law

The Federal Voter Registration Act of 1993, also known as the motor voter law, requires a voter registration form to be included with each driver license application, including renewal applications, and there are federal requirements regarding the transmission of this data to the state election's office.¹⁴

Section 97.057(1), F.S., requires DHSMV to provide the opportunity to apply to register to vote or to update a voter registration record to each individual who comes to an office to:

- Apply for or renew a driver license;
- Apply for or renew an identification card; or
- Change an address on an existing driver license or identification card.¹⁵

Effect of the Bill

The bill defines the term “license plate agency” as an office appointed by the tax collector which is equipped with DHSMV’s Florida Real Time Vehicle Information System (FRVIS) and managed by a governmental or private entity to process transactions related to motorist services on behalf of DHSMV. The bill amends various sections of statute referring to license tag agencies and tag agencies to change these references to the newly defined term “license plate agency.”

The bill provides that operational requirements for license plate agencies, as established by DHSMV policies and procedures, including, but not limited to, purchases of equipment, license plates, and validation stickers and other costs incurred by DHSMV, must be the same for both governmentally and privately managed license plate agencies.

The bill provides that, effective October 1, 2021, the appointed tax collector of any charter county may, at the tax collector’s discretion, participate in a pilot project through which the tax collector contracts with one or more license plate agencies to provide the following driver license services:

- Processing a licensee’s application and collecting the required fees for renewal of any driver license that is currently compliant with federal REAL ID Act requirements.
- Processing a licensee’s application for reinstatement of a suspended driver license and collecting the required fees, if the only condition for reinstatement is the payment of such fees.
- Processing a licensee’s or cardholder’s request to change his or her address and application for a replacement driver license or identification card, and collecting the required fees, if the driver license or identification card is currently compliant with federal REAL ID Act requirements.

The bill provides that DHSMV shall, upon application from each tax collector electing to participate in the pilot project, authorize the tax collector by interagency agreement, to provide these services as DHSMV’s agent through one or more license plate agencies.

The bill provides that a tax collector’s election to contract with an LPA does not require the tax collector to provide all authorized driver license services. The bill does not authorize an LPA to issue driver

¹² Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 613. pp. 7-8. (March 5, 2021)

¹³ *Id.* at 5.

¹⁴ United States Department of Justice, *The National Voter Registration Act of 1993*, <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra> (last visited March 4, 2021).

¹⁵ Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 613. p. 8. (March 5, 2021)

licenses or identification cards or possess any blank driver licenses or identification cards. The bill requires that a covered employee of an LPA, prior to providing driver license services, must be fingerprinted, undergo background checks, and be subject to disqualification from providing such services to the extent required by federal law. The bill prohibits information gathered for the completion of a driver license or identification card renewal or change of address to be automatically transferred to a voter registration application. Instead, an LPA must provide each licensee or cardholder a printed notice with instructions on how to register to vote or update a voter registration record. If the LPA collects funds to be deposited into the state treasury, these funds must be paid into the state treasury within the same time frame as required for county tax collectors.¹⁶

The bill sets forth provisions requiring each tax collector participating in the pilot project to review implementation of the pilot project and the provisions of the specified driver license services by LPAs in the respective county. The tax collector must submit a preliminary report of its findings and recommendations to DHSMV, and the department must provide comments to the tax collector regarding their findings and recommendations. A final report must be submitted by the tax collector, inclusive of DHSMV's comments, to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representative by December 31, 2025.

The bill has an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.01, F.S., defining the term "license plate agency."

Section 2: Amends s. 320.03, F.S., relating to the registration duties of tax collectors.

Sections 3-5: Amends ss. 320.04, 320.06, and 320.0894, F.S., to conform.

Section 6: Amends s. 322.135, F.S., relating to driver license agents.

Sections 7-9: Amends ss. 212.1832, 681.117, and 1002.40, F.S., to conform.

Section 10: Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Although this bill establishes an optional pilot project, to the extent any LPA participates, according to DHSMV there will be a significant, negative impact on expenditures that cannot be absorbed within existing resources. DHSMV reports it would require approximately \$142,688 of additional contracting resources for programming, development, and installation of the driver license issuance system in LPA offices.¹⁷ Training costs, however, to ensure LPAs can deliver the driver license services, cannot be quantified and are indeterminate.

Additionally, the bill requires both governmentally and privately managed LPA costs be the same. This provision requires DHSMV to assume the annual, recurring network costs for 57 LPAs

¹⁶ Section 322.135(6), F.S., requires tax collectors to pay all sums due to the State Treasury no later than five working days after the close of the business day in which the funds were received.

¹⁷ Attachment to e-mail from Kevin Jacobs, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, Info for meeting. (Apr. 9, 2021).

statewide, estimated to be approximately \$513,864.¹⁸ DHSMV reports that a specific appropriation would be needed as they cannot absorb this increase in costs within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have a negative fiscal impact on local government revenues, as county tax collectors that elect to participate in the pilot project may see a reduction in revenues associated with additional services being provided by private license plate agencies. Any revenue losses may be offset to some extent by a reduction in expenditures.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

License plate agencies may see additional revenues associated with providing additional services. LPAs would also be responsible for the initial equipment purchases, estimated to be approximately \$1.8 million.¹⁹

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide a grant of rulemaking, nor does it require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue

The bill makes conforming changes to the Hope Scholarship Program to replace the term “tag agency” with “license plate agency.” According to the Department of Revenue, where the word “agency” is replaced in this context, the term refers to both a “designated agent” and a “private tag agent” and the word “agent” should be put back in the bill in both locations.²⁰

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 9, 2021, the Tourism, Infrastructure & Energy Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute:

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Florida Department of Revenue, Agency Analysis of 2021 House Bill 613, pp. 4-5. (Feb. 26, 2021).

- Relocates provisions of the bill that authorize license plate agencies to provide driver license services.
- Authorizes all tax collectors, effective October 1, 2021, to contract with one or more license plate agencies for specified driver license services.
- Requires a tax collector to enter into an interagency agreement with DHSMV to provide driver license services.
- Provides that license plate agents are not authorized to issue driver licenses or identification cards or to possess blank driver licenses and identification cards.
- Requires funds collected from license plate agencies to be deposited into the state treasury in the same time frame as required for county tax collectors.

On April 6, 2021, the Infrastructure and Tourism Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Authorizes the appointed tax collector of any charter county, effective October 1, 2021, to participate in a pilot project through which the tax collector contracts with LPAs for specified driver license services.
- Processes applications for the renewal of any driver license, change of address, and application for a replacement driver license or identification card that is currently compliant with federal REAL ID Act requirements.
- Requires that a covered employee of an LPA must be fingerprinted, undergo background checks, and be subject to disqualification from providing such services to the extent required by federal law.
- Prohibits the automatic transfer of information gathered for the completion of a driver license or identification card renewal or change of address to a voter registration application.
- Requires that a printed notice, as prescribed by DHSMV, with instructions on how to register to vote or update a voter registration record be provided.
- Requires a review of the pilot project and that a final report be submitted by the tax collector, inclusive of DHSMV's comments, to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2025.

This analysis is drafted to the committee substitute as approved by the Infrastructure and Tourism Appropriations Subcommittee.