

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: CS/SB 754

INTRODUCER: Transportation Committee and Senator Diaz

SUBJECT: Motor Vehicle and Vessel Registration Data

DATE: April 7, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Wells</u>	<u>Hrdlicka</u>	<u>ATD</u>	<u>Pre-meeting</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 754 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to provide integration of other tax collection systems of tax collectors and their vendors with the Florida Real Time Vehicle Information System (FRVIS) with respect to motor vehicle, mobile home, trailer, and vessel registration renewals. Specifically the bill:

- Authorizes the DHSMV, upon a tax collector's request, to provide ancillary technology to integrate other tax collection systems used by tax collectors in order to provide tax collectors with data access and uniform interface functionalities for registration renewal transactions performed at a tax collector's office or online through a tax collector's website;
- Requires the DHSMV to provide a tax collectors' vendor with the ability to record registration renewals in FRVIS in real time and with the ability to do bulk data reporting; and
- Requires the DHSMV to ensure that the ancillary technology and other tax collection systems protect consumer data and privacy.

The bill may have a significant negative but indeterminate, impact on the DHSMV associated with the expansion of the FRVIS data access and interface functionality. See Section V. Fiscal Impact Statement.

The bill takes effect on July 1, 2021.

II. Present Situation:

Tax Collectors as Agents of the DHSMV

Chapters 320, 322, and 328, F.S., provide that tax collectors are agents of the DHSMV for the limited purposes of providing motor vehicle and driver license services. Specifically, with regards to the issuance of registration certificates, license plates, and validation stickers (motor vehicle services), the tax collectors in the several counties of the state are “authorized agents of the department ... subject to the requirements of the law.”¹ This principal/agent relationship is established by written agreement in the form of a memorandum of understanding (MOU) between the DHSMV and tax collectors throughout the state, providing that tax collectors are acting as agents of the DHSMV carrying out state law duties at a local level in a uniform and accountable manner.

While the tax collector itself is not a state agency, in its role as an authorized agent of the DHSMV it is considered a “state agency” when acting pursuant to s. 320.03, F.S., in providing motor vehicle services.² The Florida Attorney General has also concluded that tax collectors are under the direction and control of the DHSMV when providing services under chs. 320 (motor vehicle licenses) and 322 (driver licenses), F.S.³

Sixty-five counties currently have elected tax collectors who are constitutional officers.⁴ Broward and Miami-Dade counties currently have appointed tax collectors under each county’s charter government.⁵

In 2018, a constitutional amendment passed that requires Volusia, Broward, and Miami-Dade County tax collector offices to be elected positions.⁶ The tax collector in Volusia County took office in 2021 and the Broward and Miami-Dade County tax collectors will take office in 2025. Currently, the motor vehicle services in these charter counties are predominately provided by third party vendors that have an agreement with the county to charge an additional county service fee set by the county commission.⁷ Collectively referred to as LPA, these vendors are

¹ Section 320.03(1), F.S.

² *Dealer Tag Agency, Inc. v. First Hillsborough County Auto Tag Agency, Inc.*, 14 So. 3d 1238, 1240 (Fla. 2d DCA 2009). But note that the court held that the “fact that the Tax Collector is described as an “authorized agent” of the DHSMV for the provisions of section 320.03 does not make it a state agency for the provisions of chapters 287 and 120.” *Id.* at 1240.

³ “The tax collector, who acts as the agent of and under the direction and control of the department in the sale of motor vehicle license plates, is not acting as a county officer ...” FL AGO 74-101 (Apr. 1, 1974).

⁴ Volusia County formerly had an appointed tax collector. However, pursuant to ss. 1(d) and 6(g), Art. VIII of the State Constitution and effective January 5, 2021, Volusia County has an elected tax collector.

⁵ Pursuant to ss. 1(d) and 6(g), Art. VIII of the State Constitution, Broward and Miami Dade counties will have elected tax collectors effective January 7, 2025.

⁶ See Department of State, Division of Elections, *State and Local Government Structure and Operation – Amendment 10*, available at <https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=11&seqnum=24> (last visited Apr. 3, 2021). See also s. 322.02(1), F.S., related to administration of driver license services, requiring tax collectors who are constitutional officers to implement driver license services, while charter county tax collectors can transition on a limited basis as determined by the DHSMV.

⁷ In determining the appropriateness of public funding for equipment used by LPAs, the Attorney General noted for purposes of s. 320.03, F.S., that “license tag agencies are the agents of the respective county tax collectors...[and that no] pecuniary benefit inures to such agents or subagents.” FL AGO 82-81 (Oct. 11, 1982). The opinion also states that the “license tag agencies in question are the agents of the county tax collector and as such subagents of the department...”

often referred to as private tag agencies, license plate agents, license tag agencies, and private license plate agencies.⁸

Sixteen counties have, or have until recently had, contracts with LPAs to operate 57 offices to perform title and registration services for motor vehicles, mobile homes, and vessels, as follows:⁹

- | | | | |
|--------------------|-------------------|---------------------------|-----------------------------|
| • Alachua – 1 | • Bay – 1 | • Broward – 7 | • Highlands – 1 |
| • Hillsborough – 1 | • Jefferson – 2 | • Lee – 1 (opens in 2021) | • Leon – 1 |
| • Manatee – 1 | • Miami-Dade – 25 | • Orange – 4 | • Palm Beach – 2 |
| • Pasco – 1 | • Pinellas – 3 | • Polk – 3 | • Volusia – 3 ¹⁰ |

Many tax collectors in Florida hire information technology vendors to assist with mailing, cashiering, deploying kiosks, providing online services, and performing other duties. “When requested by a tax collector, the [DHSMV] routinely provides access to data, both in real-time and through batch processes, to the tax collector’s vendors for the purpose of providing support to the requesting tax collector.” Data that contains personal information¹¹ which is confidential pursuant to the federal Driver’s Privacy Protection Act of 1994 may only be released as authorized by law.¹²

To ensure compliance with Driver’s Privacy Protection Act, the DHSMV practices data minimization – the DHSMV only provides personal information from driver license records to agents and vendors when it is directly relevant to accomplish a specified task deemed necessary by the DHSMV or law. “Once the specified purpose has been completed, this practice requires that shared data is securely destroyed or otherwise rendered unreadable. Data minimization also decreases risks of data loss and breaches.”¹³

Registration Duties of Tax Collectors

Motor Vehicles

Tax collectors are authorized agents of the DHSMV that issue registration certificates, registration license plates, validation stickers, and mobile home stickers to applicants.¹⁴ The DHSMV may require each tax collector to give a bond, payable to the DHSMV, conditioned that the tax collector faithfully and truly perform the duties imposed upon him or her according to the requirements of law and the rules and regulations of the DHSMV.¹⁵ Each tax collector must keep a full and complete record and account of all validation stickers, mobile home stickers, or other

⁸ Various combinations of these words are used interchangeably.

⁹ DHSMV, *2021 Agency Legislative Bill Analysis SB 754*, (Mar. 5, 2021), p. 3 (on file with the Senate Committee on Transportation).

¹⁰ These LPA offices operated prior to the elected Volusia County tax collector taking office on January 5, 2021. Currently, these offices are winding down operations and were to close by February 4, 2021.

¹¹ Under the DPPA, “personal information” is “information that identifies an individual, including an individual’s photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver’s status.” 18 U.S.C. 2725 (2000). *See also* s. 322.143, F.S.

¹² *See* 18 U.S.C. s. 2721 et seq.

¹³ DHSMV, *2021 Agency Legislative Bill Analysis SB 754*, (Mar. 5, 2021), p. 3.

¹⁴ Section 320.03(1), F.S.

¹⁵ Section 320.03(2), F.S.

properties received by him or her from the DHSMV.¹⁶ The Florida Real Time Vehicle Information System must be installed in every tax collector's and license tag agent's office in accordance with a schedule established by the DHSMV in consultation with the tax collectors and contingent upon funds being made available for the system by the state.¹⁷

Vessels

Tax collectors must issue registration certificates and vessel numbers and decals to applicants, subject to the requirements of law and in accordance with the rules of the DHSMV.¹⁸ Each tax collector must keep a full and complete record and account of all vessel decals or other properties received by him or her from the DHSMV and must make prompt remittance of moneys collected by them at the times and in the manner prescribed by law.¹⁹

Florida Real Time Vehicle Information System (FRVIS)

The FRVIS is the DHSMV's database system used to title and register all motor vehicles, mobile homes, trailers, and vessels in Florida. The system is composed of two processing environments. The first is a distributed environment that consists of the servers at local tax collector and LPAs that process tag, title, and registration transactions throughout the state. The second environment is the host portion that consists of the back-end processing that is conducted centrally at the DHSMV's primary data center.²⁰

The FRVIS facilitates the collection of taxes and fees for tags, titles, and registrations. There is a \$0.50 fee on each motor vehicle, mobile home, and vessel registration to cover the operation of the FRVIS, and that fee is deposited into the Highway Safety Operating Trust Fund.²¹ According to the DHSMV, the FRVIS processed approximately 407.3 million transactions for the collection of approximately \$2.99 billion in revenue from taxes and fees associated with tags, titles, and registrations for motor vehicles and vessels during Fiscal Year 2019-2020, including amounts retained by local tax collector and tag agent offices.²² These funds are distributed through the FRVIS to various state agencies, including the DHSMV, and non-state entities in accordance with law.²³

Any tax collector or LPA opening a new office or expanding existing offices initially purchases the equipment needed for title and registration services in that office. Periodically after the initial purchase, when equipment become outdated, the DHSMV refreshes the equipment and pays the cost of the new equipment, contingent upon appropriated funds, for both tax collector and LPA offices. "LPAs reimburse the [DHSMV] for reoccurring circuit costs (i.e., Internet access) for

¹⁶ Section 320.03(3), F.S.

¹⁷ Section 320.03(4)(b), F.S.

¹⁸ Section 328.73(1), F.S.

¹⁹ Section 328.73(2), F.S.

²⁰ Auditor General, *Department of Highway Safety and Motor Vehicles, Florida Real Time Vehicle Information System (FRVIS): Information Technology Operational Audit*, p. 2 (Apr. 2014), available at https://flauditor.gov/pages/pdf_files/2014-183.pdf (last visited Apr. 3, 2021).

²¹ Sections 320.03(5) and 328.73(3), F.S.

²² Email from Kevin Jacobs, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles to Senate Committee on Transportation staff, *FW: FRVIS* (Mar. 16, 2021) (on file with the Senate Committee on Transportation).

²³ See Florida Revenue Estimating Conference, *2020 Florida Tax Handbook*, pp. 47, 139, and 198, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Apr. 3, 2021).

each location, unless the LPA office is colocated with a tax collector's office and the circuit is shared."²⁴

The DHSMV administers the FRVIS in consultation with the Florida Tax Collectors, Inc., to ensure that each county tax collector's office is equipped with the necessary information technology to support the operation of the FRVIS.²⁵ Only the DHSMV, tax collectors, and LPAs have access to the FRVIS. Access to the DHSMV systems and data is governed by various MOUs between the DHSMV, tax collectors, and third party vendors or agents of the tax collectors. The MOUs document how the data will be used and protected, ensuring compliance with various state and federal laws, including the federal Driver's Privacy Protection Act.²⁶

FRVIS Interfaces

Over the years, the DHSMV has created a number of custom interfaces to the FRVIS. These interfaces include:²⁷

- The Electronic Filing System²⁸ and Electronic Temporary Registration system²⁹ which allow motor vehicle and vessel dealers the ability to conduct tag and title transactions at their dealerships;
- The motor vehicle kiosk interface to allow tax collector vendors the ability to place motor vehicle registration kiosks in their offices and in off-site locations such as Publix; and
- The Motor Vehicle Eligibility Web Service to provide tax collectors with a real time application interface to assist with processing both mailed motor vehicle renewals and motor vehicle renewals processed through their proprietary standalone websites.

Other Significant DHSMV Systems and Data Exchanges

The DHSMV also operates various other driving and traffic records systems including:³⁰

- Online Registration and Identity Operating Network for issuing driver licenses and identification cards;
- An electronic crash reporting system for law enforcement to submit crash reports; and
- A uniform traffic citation processing system utilized by the clerks of court to submit traffic citations.

The DHSMV also maintains dozens of data exchanges with governmental and private entities to provide access to real time data to improve customer service and efficiency of operations. In addition to tax collectors, the DHSMV works with other external stakeholders, including state and local law enforcement, clerks of court, supervisors of elections, other states through the American Association of Motor Vehicle Administrators systems, the Department of State, the Department of Transportation, insurance companies, expressway tolling authorities, automobile

²⁴ DHSMV, 2021 Agency Legislative Bill Analysis SB 754, (Mar. 5, 2021), p. 3.

²⁵ Section 320.03(5), F.S.

²⁶ DHSMV, 2021 Agency Legislative Bill Analysis SB 754, (Mar. 5, 2021), p. 3-4.

²⁷ DHSMV, 2021 Agency Legislative Bill Analysis SB 754, (Mar. 5, 2021), p. 4.

²⁸ The Electronic Filing System has been created using the new Online Registration and Identity Operating Network architecture which is being used for the Motorist Modernization Project.

²⁹ Section 320.131(8) and (9), F.S.

³⁰ DHSMV, 2021 Agency Legislative Bill Analysis SB 754, (Mar. 5, 2021), p. 4.

dealers, and various other technology companies. These stakeholders rely on the DHSMV data or systems to efficiently conduct their business.³¹

External stakeholders and their vendors routinely submit requests to the DHSMV to modify its motor vehicle, driver license, and traffic records systems and interfaces to meet the stakeholder's needs. When a stakeholder requests a modification to an existing system or creation of a new system or interface, the DHSMV must evaluate the:

- Benefits of the modification, new system, or new interface to customers of the DHSMV and tax collectors, to third party system users, and to the tax collectors' vendors;
- The cost to implement the change;
- Previously existing legislative, tax collector, or DHSMV priorities; and
- Requested implementation schedule.³²

Collection of Electronic Mail Addresses

In addition to residential street addresses, the DHSMV is authorized to collect and store (in the FRVIS) e-mail addresses. E-mail addresses may be used, in lieu of the United States Postal Service, to provide certain renewal notices, including registration renewal notices, driver license renewal notices, and vessel registration renewal notices.³³ E-mail addresses collected by the DHSMV pursuant to s. 319.40(3), F.S., (relating to motor vehicle, mobile home, and trailer titling) and s. 320.95(2), F.S., (relating to motor vehicle, mobile home and trailer registrations) are exempt from disclosure pursuant to s. 119.07(1), F.S., and s. 24(1), Article I of the State Constitution.³⁴

III. Effect of Proposed Changes:

The bill amends s. 320.03, F.S., to require each third party contracted with a tax collector who has online computer access to the DHSMV's systems or data to enter into a memorandum of understanding with the DHSMV.

In implementing FRVIS, the DHSMV, in consultation with the Florida Tax Collectors, Inc., is required to ensure that all ancillary technology and other tax collection systems, such as systems used by approved vendors of tax collectors, protect customer privacy and data.

The bill amends ss. 320.03 and 328.73, F.S., to authorize the DHSMV to modify existing systems to integrate other tax collection systems used by tax collectors when requested by a tax collector. This integration must provide the tax collector with data access and uniform interface functionalities for registration renewal transactions³⁵ performed at the tax collector's office or online through the tax collector's website. Other tax collection systems would include technology systems provided by a tax collector's approved vendors.

³¹ *Id.*

³² *Id.*

³³ Sections 319.40, 320.95, 322.08(10), 328.30, and 328.80, F.S.

³⁴ Section 119.0712(2)(c), F.S.

³⁵ The bill defines this to mean issuance of motor vehicle, mobile home, and trailer registration certificates, registration license plates, validation stickers, vessel registration certificates, and vessel numbers and decals

The DHSMV is authorized to determine the best manner to deliver the data access and uniform interface functionalities. The DHSMV must also provide the ability to record and process registration renewal transactions in the FRVIS in real time and bulk data reporting for registrations, including each applicant's e-mail address. Access to the bulk data would also include personal information from license records. The provided data and functionality may be used only for purposes of fulfilling the tax collector's statutory duties and may not be resold or used for any other purpose.

The bill requires that the data access and uniform interface functionalities must be developed no later than July 1, 2023.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Tax collector-approved agents and vendors, may experience a positive indeterminate fiscal impact as a result of improved operational efficiencies and service due to having the ability to record motor vehicle, mobile home, and vessel registration renewals in the FRVIS.

C. Government Sector Impact:

Tax collectors may experience a positive indeterminate fiscal impact as a result of improved operational efficiencies and service due to having the ability to record motor vehicle, mobile home, and vessel registration renewals in the FRVIS.

The DHSMV has been updating its systems over the past several years through its Motorist Modernization project. Phase II of the project began recently and is intended to redevelop all systems and processes supporting titling and registration. The expected timeframe for Phase II is completion by Fiscal Year 2023-2024 and the total budget is \$53 million.

Upon the request of any tax collector, the bill requires the DHSMV to create and maintain interfaces to support the integration of the tax collector's vendors' technology systems and provide the vendors with the ability to record motor vehicle, mobile home, trailer, and vessel registration renewals in the FRVIS in real-time. The bill requires the new functionality to be complete by July 1, 2023. This may conflict with the current plan for Phase II of the Motorist Modernization project and cause project delays.

The bill will result in a significant negative impact to the Highway Safety Operating Trust Fund and may impair the DHSMV's ability to fund all current activities, including current FRVIS and interface costs, Motorist Modernization project costs, and tax collector and LPA equipment refreshers and internet connections, and the new activities required under the bill, to create additional interfaces to the FRVIS for tax collectors' vendor-provided systems.³⁶

Complying with the requirement to integrate a vendors technology systems may impact the DHSMV's ability to maintain the FRVIS within current resources. Presently, the DHSMV manages its resources for the FRVIS to maintain the system's functionality and capabilities to benefit the widest array of users. The potential new interfaces may limit the DHSMV's ability to prioritize use of resources for the FRVIS, including to make enhancements required by federal law and to make enhancements that would benefit law enforcement, automobile dealers, and other stakeholders.³⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires the DHSMV to provide the tax collector and his or her approved vendor with the ability to record registration renewals in the state system in real time. Neither the DHSMV's websites nor the tax collectors' websites currently update a cashiered renewal transaction in real time. This functionality is included in Motorist Modernization Phase II, which is expected to be

³⁶ DHSMV, 2021 Agency Legislative Bill Analysis SB 754, (Mar. 5, 2021), p. 10.

³⁷ *Id.*

completed by Fiscal Year 2023-2024. The timing required by the bill may conflict with this programming.³⁸

The bill authorizes the DHSMV to provide tax collectors and their approved third-party vendors' data access and interface functionality that includes bulk data transfers. This potentially could undermine the DHSMV's data minimization policies. Those policies are designed to protect customers against data loss, including personally identifying information, and to ensure compliance with the federal Drivers Privacy Protection Act.³⁹

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.03 and 328.73.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Committee on Transportation on March 24, 2021:

- Authorizes tax collectors to contract with vendors for technology services in order to provide electronic and telephonic motor vehicle and vessel titling transactions to customers;
- Defines a vendor-built technology system for motor vehicle, mobile home, and vessel renewal transactions as a “tax collection system;”
- Provides that if requested by a tax collector, the DHSMV is authorized to provide ancillary technology to integrate other tax collection systems used by tax collectors in order to provide tax collectors with data access and uniform interface functionalities for registration renewal transactions performed at a tax collector's office or online through a tax collector's website;
- Requires the DHSMV to provide a tax collectors' vendor with the ability to record registration renewals in the FRVIS in real time and with the ability to do bulk data reporting;
- Removed language in the underlying bill which provided for data access and interface functionalities to the tax collectors and third parties contracting with a tax collector, that other third parties receive from the DHSMV; and
- Removed language in the underlying bill which provided that a tax collector and third parties contracting with a tax collector may collect electronic mail addresses.

B. Amendments:

None.

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

³⁸ *Id.* at pp. 6 and 11.

³⁹ *Id.*